

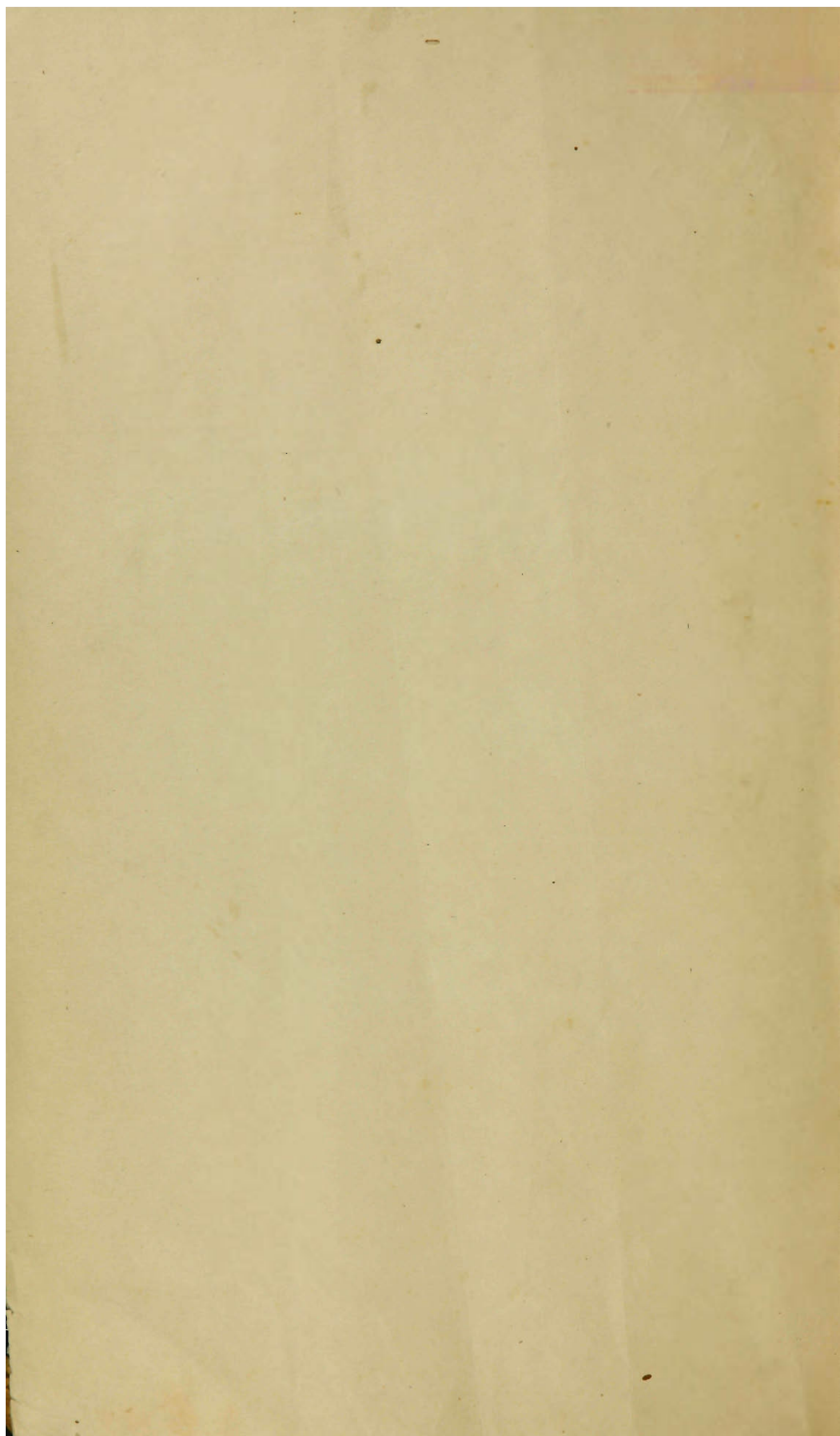
(APPENDIX)
Report
OF THE
MALABAR
MARRIAGE COMMISSION
1891





Ans. 729.

500/-



REPORT

OF THE

Malabar Marriage Commission

WITH

ENCLOSURES AND APPENDICES.

ENCLOSURE A.—Memorandum by the President.

„ B.—Memorandum by M.R.Ry. Rama Varma Tamburan Avargal.

„ C.—Memorandum by M.R.Ry. O. Chandu Menon Avargal.

„ D.—Memorandum by M.R.Ry. Mundappa Bangera Avargal, B.A., B.L.

APPENDIX I.—Extracts relating to Marumakkathayam Sexual usages.
Collected from Official Reports and published Works.

„ II.—List of 474 persons to whom Interrogatories were sent.

„ III.—Sixty-four selected answers, with list.

„ IV.—Depositions of 121 witnesses examined *viva voce*, with list.

„ V.—Statement showing Marumakkathayam Castes.

„ VI.—Extract from the Diary of the Commission.

Madras:

PRINTED AT THE LAWRENCE ASYLUM PRESS, MOUNT ROAD
BY G. W. TAYLOR.

1891.

IND/MAH
C6/4
M101
appendix

—1250—

CONTENTS OF REPORT.

GOVT PUBLS COLL

	PARAGRAPHS
Appointment of Commission	1, 2
Definition of its task by Government of India	3
Procedure followed by the Commission; Circulation of Interrogatories; Examination of leading men... ..	4
Evidence not given on oath, nor subject to cross-examination; Inexpediency of examining witnesses not belonging to the Marumakkathâyam classes; Evidence to be viewed with caution	5
Sixty-four selected answers printed; Evidence of 121 witnesses printed	6

The Marumakkathâyam Castes.

Figures of recent Census not available; Census of 1881; Uncertainty as to many of the caste names	7
Uncertainty as to number of Marumakkathâyam Tiyans	8
Proportion of Marumakkathâyam to Makkathâyam population 30 per cent.	9
The Marumakkathâyam Hindus	10
Prohibition of sexual intercourse between Nayars and Tiyans	11
Caste divisions amongst Nayars, and their effect in stopping intermarriage	12—16
The rule of <i>anulômam</i> and <i>prathilômam</i> ; Inconsistent with the institution of marriage	17
The Kora river regarded as boundary between North and South Malabar for caste purposes; Nayars of South Malabar not generally allowed to consort with Nayar women of North Malabar	18
The Nambudri Brahmans; The only priests and religious instructors of the Nayars; Their number	19
Orthodox view of the Nambudri	20
Nambudri marriage customs; Pernicious effect of the system on their own women	21
And on themselves	22
The Marumakkathâyam Tiyans	23

Marumakkathâyam.

Possesses no Code; Nambudris were the only repositories of tradition; The Kérala Mahâtmyam; Its teaching; Injunction against female chastity; This doctrine still taught by the Nambudri priesthood; And by the highest Marumakkathâyam authority; Forms the foundation of the Marumakkathâyam system	24
--	----

Polyandry.

No new light as to its origin; Significance of fact that aboriginal tribes follow Makkathâyam not Marumakkathâyam; Close affinity of Malayalam to Tamil indicates that the Nayars entered Malabar through the Palghât gap	25
Polyandry alleged to be extinct; Undoubtedly becoming very rare	26

Marumakkathâyam "Marriage" Customs.

This phrase involves a <i>petitio principii</i> ; Difficulty from want of inoffensive terms... ..	27
Malayalam terms for marriage; Marumakkathâyam equivalent; 'Husband,' 'wife,' and 'marriage' used by Commissioners to avoid offence	28
What is marriage? Sir FitzJames Stephen's view accepted as a test	29
"Marriage customs" continued; the Tâli-kettu Kalyânam or "mock marriage" described; European opinion as to its significance (note)	30
Explanation of an orthodox defender of the ceremony	31
Marumakkathâyam and Brahman opinion regarding it	32
Most intelligent Malayâlis ashamed of it; Custom blindly followed; Variations in different parts of the District	33—37

Tāli-kettu among the Marumakkathāyam Tiyaṅs	...	...	...	...	38
Now regarded as a Tarawād ceremony to be performed once in 10 years	...	...	...	...	39
Claimed to be a remedy against infant marriage; Not really so	...	...	...	...	40
Possibility of converting it into a true marriage	...	...	...	...	41
Difference of opinion as to whether any formality except <i>Tāli-kettu</i> is necessary before the girl consorts with a man; No formality essential; Modern tendency is to surround the occasion of first cohabitation with an elaborate ceremonial; Description of the <i>Puda-mari</i> ceremony in North Malabar; Other approved forms of social 'marriage'	...	...	...	...	42
Reasons why none of them constitute a legal marriage; When a Brahman consorts with a Nayar girl in North Malabar there is the same ceremonial	...	...	...	...	43
Our President's reasons for holding that there is no legal marriage	...	...	...	...	44
Rulings of the Madras High Court	...	...	...	...	45
Testimony of the Nambudri priests, the Rajahs, and the aristocracy that Sudra women are not bound to chastity	...	...	...	...	46
Sexual relation depends on mutual consent, and can be terminated by either party at will without formality; Father not liable for maintenance of wife or children	...	...	...	...	47
Conclusion that there is no legal marriage	...	...	...	...	48
The social forms of marriage have in them no religious element	...	...	...	...	49
How the system works	...	...	...	...	50

The Marumakkothāyam Family.

In theory an indissoluble unit; Under the sway of the senior male Family property impartible; Functions of male and female members	...	...	...	...	51
The Kāranavan, or senior male; His powers and privileges; Non-liability to be called on for account; Constant conflict of interest with duty; Junior members have only a right to residence and maintenance in the family house; Rule as to power over self-acquisitions	...	...	...	...	52
Old age as the only qualification for office; Operation of the rule; Tarawāds afflicted by constant change of Kāranavan; Karanavan's temptations; "Gross acts of spoliation constantly carried on by heads of families"	...	...	...	...	53
No wholesome home influences; Education neglected	...	...	...	...	54
Theory that Tarawād is an indissoluble unit; Disintegration inevitable; Young birds must be crowded out of the nest; Growth of tāvazhis (branches); Circumstances leading to dissension; Kāranavans misappropriate Tarawād property; Anandaravans refuse to work; Hatred and dissension the rule	...	...	...	...	55
Common mistake to suppose that every Tarawād has an ancestral estate; Mr. Logan's conclusion that the race (of Nayars) is fast degenerating	...	...	...	...	56
Final result of impartibility is that Tarawād estate becomes hopelessly encumbered	...	...	...	...	57
Marumakkathāyam in North Malabar; Patriarchal system overcoming the Matriarchal; High Court Ruling that the Tarawād must support the 'wives' and children of the junior males; Effort to shake off the Matriarchal system thwarted by our Courts; Mr. Mayne's opinion referred to	...	...	...	...	58
Majority opposed to change; But will follow the lead of the enlightened minority; Testimony of hostile witnesses to this effect	...	...	...	...	59
Legislation is expedient; Our President's arguments	...	...	...	...	60
The present system becoming hopelessly unworkable; A summary of its evils; The people are better than their law. Are adopting marriage as a social institution; Proposed law will merely legalize the growing custom	...	...	...	...	61
Growth of polygamy will be checked	...	...	...	...	62
Husbands will have no excuse for taking the law into their own hands	...	...	...	...	63
Expedient also for the Aliyasantāna people of South Canara; The same indictment brought against Aliyasantānam as against Marumakkathāyam	...	...	...	...	64
What form legislation should take; The alternatives; Commission divided in opinion; Majority advise that if President's scheme be not approved, Mr. Sankaran Nair's Bill be introduced with a view to its being shaped into law	...	...	...	...	65
Objections to the Bill discussed	...	...	...	...	66
Registration of marriage	...	...	...	...	67
Should marriages in breach of caste rules be pronounced void?	...	...	...	...	68, 69

Suggested way out of the difficulty	...	...	...	...	...	...	70
Objections as to consanguinity and affinity	...	...	...	...	...	...	71
Divorce	...	...	...	...	...	...	72—74
Objection as to piebald system of inheritance	...	...	...	...	...	...	75, 76
Objection to change in the Law of Succession ; Compromise proposed of giving half of self-acquisitions to widow and children and half to Tarawād ; Objections to this ; Reasons for urging that the whole should go to wife and children	...	...	...	...	...	...	77
Our President's view	...	...	...	...	...	...	78
The so-called religious objections to a change in the devolution of self-acquisitions ; Are unfounded	...	...	...	...	...	...	79
Guardianship, Difference of opinion between the Commissioners	...	...	...	...	...	...	80
Unnecessary to go into further details until leave is granted to introduce the Bill	...	...	...	...	...	...	81
Proposed legislation will not prejudice Travancore or Cochin	...	...	...	...	...	...	82
Separate memoranda recorded by four members of the Commission ; Diary of the Commission.	...	...	...	...	...	...	83
Recommendation that the power of devise by Will should be conferred upon the Marumakkathâyam classes	...	...	...	...	...	...	84

Enclosure A. Memorandum by the President.

„ B. Memorandum by M.R.Ry. Rama Varma Tamburan Avargal.

„ C. Memorandum by M.R.Ry. O. Chandu Menon Avargal.

„ D. Memorandum by M.R.Ry. Mundappa Bangêra Avargal, B.A., B.L.

Appendix I. Extracts relating to Marumakkathâyam sexual usages : collected from official Reports and published Works.

„ II. List of 474 persons to whom Interrogatories were sent.

„ III. Sixty-four selected answers, with list

„ IV. Evidence of 121 witnesses examined *vivâ voce*, with list.

„ V. Table of Marumakkathâyam castes.

„ VI. Extracts from Diary of Commission.

To

THE CHIEF SECRETARY TO GOVERNMENT,

Fort St. George, Madras.

SIR,

We, the undersigned Members of the Commission appointed by G.O., dated 4th May 1891, No. 25, Legislative, have the honour to submit the following Report:—

2. It seems unnecessary to recapitulate the circumstances leading to the appointment of the Commission, further than to say that the starting point is the proposal “to provide a form of marriage for Hindus following the Marumakkathâyam law.”

3. *Object of the Commission.*—The object of the Commission, as defined by the Government of India (G.O., 7th April 1891, No. 13, Legislative), was to provide evidence,

- (a) as to the customs connected with Hindu marriages in Malabar,
- (b) as to whether the proposed changes are desired by the majority of the classes subject to the Marumakkathâyam law,
- (c) or are essential for the protection of the minority :
- (d) Whether legislation is expedient,
- (e) and if so what form it should take :
- (f) Whether the measure would affect the religion, or the religious rites and usages, of the Marumakkathâyam classes.
- (g) What would be its effect upon the people of the neighbouring States of Cochin and Travancore,
- (h) and upon the people governed by the Aliyasantâna law.

4. *Procedure followed by the Commission.*—The procedure followed by the Commission to collect the necessary material for a report is described below, in the words of the President :—

“It was our anxious desire to render the information which we had to collect, full and comprehensive. With this object a set of questions was framed about one month before the Commission visited Malabar, and replies were invited from representative men, selected by Mr. Winterbotham in communication with his Tasildars, from the official and the educated classes, from representatives of influential families or Tarawâds, in the interior, and from the members of the Bar in the District. We also invited representations from the several Kovilakams or families of the ancient rulers of this part of the country, and from Nambutiris whose opinions on matters of caste are considered to be authoritative. Before questions were framed by the Commission, Mr. Winterbotham had invited information from the Dewans of Travancore and Cochin and from several intelligent and educated men in those States through the British Resident. In the result, interrogatories were sent on the whole to 474 persons, of whom 322 sent in replies. (*Vide Appendix II.*)

Another arrangement made in view to obtain comprehensive knowledge and to secure an expression of public opinion throughout the District, consisted in inviting a few leading men from every Taluk to appear before the Commission and to favour it with their views as to the expediency of the proposed legislation and as to the best mode of regulating and improving sexual usages among persons subject to the Marumakkathâyam law. We deemed it advisable to adopt this procedure, *first*, to supplement and elucidate the written answers in cases in which it was desirable to do so, and to obtain a knowledge of special local customs; *secondly*, to enable the Government to see how far local opinions are in favour of the proposed, or any other, form of legislation regarding marriage, and on what points they vary in different parts of the District and among different classes of people. In order to economise our time and prevent public inconvenience, we intended also to hold a Conference wherever a large number of persons attended, and to record the representations which they desired to make in connection with the Bill. For the purpose of enabling the people readily to come forward and to submit their views, it was arranged that the Commission should sit before the outburst of the South-West Monsoon at Cannanore and Tellicherry, and then visit Calicut, Shoranore and Palghât. At the several stations mentioned above, we examined every one who appeared to give evidence in compliance with our request. In none of the stations which the Commission visited, was the attendance so large as to suggest the necessity of substituting a general Conference for individual examination. On the other hand the attendance on some days was so meagre that the examination of witnesses was over early in the afternoon, and that was the case for several days at Cannanore and Tellicherry and on the last day of our sitting at Calicut and Palghât. Another part of our procedure consisted in announcing in the District Gazette our desire to consider and record any representation which organised literary and other Societies, or persons who had not been specially invited, wished to submit for or against the proposed legislation. We received representations from one Society (The Travancore Malayâli Association), and from twelve meetings held in several portions of the District. We also received, through Government or direct, 38 petitions, of which 13, signed by 2,723 persons, were in favour of legislation, and 25, signed by 2,131 persons, were against it. Opportunity was given to such of the Native Commissioners as belong to Malabar to mention to Mr. Winterbotham the names of persons who might in their opinion be specially requested to give evidence. It seemed to me that in an enquiry like the one which the Commission had to institute, it would not be amiss to get an insight, if practicable, into the sentiments of respectable Nayar ladies competent to form and express an opinion regarding the necessity for a marriage-law. It was not, however, practicable to do anything in furtherance of this object in North Malabar where the Nayar women are notably conservative and live in privacy in their homes,—a privacy akin to the close seclusion which is observed by Nambutiri ladies. Though women in South Malabar are allowed greater freedom, and their intercourse with men of respectability is not unduly restricted, yet I understood that it was not in their power to express their opinions otherwise than through their Kâranavans and husbands, and that it was difficult to ascertain their genuine feeling. I may mention that shortly before the Commission was about to dissolve I received four petitions, three signed by 245 ladies, alleging that legislation was necessary, and the fourth, signed by 387 ladies, objecting to any change in the existing usage. They tend to support the view

that the ladies follow more or less the lead of their male relatives. In addition to these sources of information the Commissioners had before them the opinions of several European writers who had resided for sometime amidst the people subject to the Marumakkathâyam usage and made their home-life a subject of special study. Appendix I. contains copious extracts to facilitate reference to those opinions. We had also before us the very interesting and instructive account of the Malayâli races given by Mr. Logan in his Manual on Malabar; and the opportunities which he had of acquiring a knowledge of local usage during his stay in the District for about 20 years, and the keen interest and zeal with which he endeavoured to acquire such knowledge, impart a special value to his description of domestic and social life in Malabar. Further, we had before us the opinions of the Committee, consisting among others of Mr. Logan, Mr. Wigram, Mr. Sankara Nair, and the late Raja Sir T. Madhava Row, the distinguished Minister of Travancore. After recording evidence at the several centres in the District and tabulating the answers to our interrogatories, the Commissioners discussed the Bill in detail and prepared memoranda embodying their opinions and the reasons for the same. The memoranda and the resolutions recorded at the several meetings held at Calicut form the basis of the report which Mr. Winterbotham has kindly undertaken to prepare.

“Having described the procedure which we followed, I shall make a few remarks with reference to the material available to the Commission. As regards the information elicited regarding marriage customs, it is reliable; but it must be accepted with caution so far as it bears on the extent to which polyandry still lingers in parts of South Malabar and influences the relation of the sexes. Testing the recorded evidence by what I have heard outside the Office during my tour, from disinterested local officials and landholders, I think the extent is understated. It was a matter about which it was not possible to subject the witnesses to a searching cross-examination without giving offence to them and to the local community. The procedure of the Commission was throughout so arranged as to be sympathetic and conciliatory and neither aggressive nor offensive. It was suggested to us that the Moplas in Ponnani and Valluvanad would give us a different version, but having regard to the irritation and excitement which the proceeding might occasion, we assumed the responsibility of declining to avail ourselves of this source of information. There is another fact which I must submit for the information of his Excellency in Council. A majority of representative men in the District have not come forward to lay their views before us in spite of every effort to direct their attention to the object of our enquiry. This peculiarity attracted my attention at each of the stations I visited, and I endeavoured to ascertain the cause from several Tasildars and District Munsifs and a few influential landholders who happened to see me. I cannot attribute this to mere indifference, for the widest publicity was given to the nature of our enquiry, and there were traces of an impression on the public mind that the proposed legislation would break up the Marumakkathâyam Tarawâds. I find also from the recorded evidence that many witnesses, both educated and uneducated in English, assail the provision regarding the succession of wives and children to self-acquired and separate property as inaugurating a double system of inheritance in one and the same family and closing one important source from which Tarawâd property has hitherto been recruited. The general reluctance to come forward to give evidence appears to me to be a silent protest against any change of the

Marumakkathâyam usage.* It will be remembered that the people were free either to respond or not to respond to our invitation, and that we could only do our best to ascertain the public feeling as it actually exists, and give every one an opportunity of saying what he desired to say."

5. In other words this Commission was under all the disadvantages which generally attach to Commissions as investigating bodies. We had no power to compel the attendance of witnesses, and it was alike impolitic and impracticable to subject the witnesses to any examination as to their own personal experience in matters connected with the softer sex, or with family life. Any attempt to put witnesses through such an ordeal would have operated to prevent any one from coming forward.

Neither was it desirable to examine witnesses from the numerous castes following the ordinary law of inheritance, and living side by side with the Marumakkathâyam people. Any evidence unfavourable to the latter would have exposed a witness to the hostility of his Marumakkathâyam neighbours; and where this apprehension did not prevent disclosure, the result would have been to rouse caste antipathies, and to stir up bad blood.

Thus, in considering the evidence taken by the Commission, it should be borne in mind that the witnesses were not on oath, nor subjected to cross-examination, and that they were under a strong natural bias to suppress unpleasant facts, and to reveal the bright side only of the picture. To supply the shading required for a truthful representation, it would be necessary to hear what their neighbours of other castes had to say; and such an enquiry, as already explained, would have produced far more evil than good.

When we find witnesses (especially those of North Malabar) asserting that the Marumakkathâyam people require no law to curb vicious propensities, and that by both men and women, a standard of chastity and conjugal fidelity is maintained in which there is no room for improvement, we may accept the picture subject to the above reservation, *viz.*, that all the shade is left out.

6. Of the 322 sets of answers sent in, it was obviously impossible, and unnecessary, to print the whole. After careful perusal 64 answers have been printed, as sufficiently illustrating all shades of opinion (Appendix III.). The selection was not an easy matter, but the choice was determined either by the intrinsic merit of the essay, or by the prominence of the writer in respect of rank, position or education.

The Commission examined 121 witnesses *vivâ voce*, and their evidence, printed in full, forms Appendix IV.

7. In treating of the subject of marriage, a brief description of the Marumakkathâyam classes, and of their caste and family-system, in theory and practice, cannot be omitted, though to all familiar with the subject much of the disquisition may appear tedious and superfluous.

It is unfortunate that the tabulation of the results of this year's Census has not progressed far enough to enable the Commission to avail themselves of the information it would afford.

* NOTE.—We do not concur in this opinion. We attribute the reluctance to a natural dislike to be questioned regarding peculiar customs.

From the Table of Malabar Castes, printed at page 340, Vol IV., of the Census Report of 1881, all those known, or believed, to be Marumakkathâyam have been extracted, and are shown in Appendix V., attached to this Report.

At the Census the particulars of castes were necessarily arrived at by accepting the information given by the people themselves. Each person was entered as belonging to such caste as he affirmed to be his. Persons of the same caste may have described themselves by the general term "Nayar," or as belonging to a particular division, or sub-division, of the Nayars. The numbers in such divisions, or sub-divisions, therefore may not, and in many cases certainly do not, at all represent their true numerical importance. There is also considerable difficulty in identifying some of the names, and it is therefore not possible in all instances to be certain which law of inheritance the caste is under.

From this statement the number of the Marumakkathâyam Hindus in Malabar would appear to be as follows :—

		Males.	Females.
Kshatriyas, Nayars and the allied castes	... ..	233,155	237,174
Marumakkathâyam Tiyaṇs (North Malabar)	... ..	108,639	111,806
Marumakkathâyam Mukkuvans (ditto)	... ..	2,835	2,805
Total	... ..	344,629	351,785

8. It is impossible to arrive at anything like an accurate estimate of the number of Marumakkathâyam Tiyaṇs and Mukkuvans. It may be stated broadly that the Tiyaṇs and Mukkuvans of the three Northern Taluks,—Chirakkal, Kottayam and Kurumbranad,—are Marumakkathâyam, and that throughout the rest of the District they are Makkathâyam; but there is a sprinkling of Marumakkathâyam Tiyaṇs sojourning in South Malabar and the Wynad, and of Makkathâyam Tiyaṇs in North Malabar, and the means of correctly ascertaining how many are under each of the two rival systems of inheritance, do not exist.

The number of Tiyaṇs and Mukkuvans in the three Northern Taluks has accordingly been taken as representing the number of Marumakkathâyam Tiyaṇs and Mukkuvans, and no nearer approximation can be arrived at.

9. It may be taken that the total Hindu Marumakkathâyam population in 1881 was about 696,414, of whom 470,329 were Nayars, and 226,085 Tiyaṇs and fishermen. The total population of the District in 1881 was :—

		Males.	Females.
Hindus	... ..	824,403	844,868
Mussulmans...	... ..	327,620	324,578
Christians	... ..	22,032	21,164
Others	... ..	219	151
Total	... ..	1,174,274	1,190,761
Grand Total	... ..	2,365,035	

Thus the Marumakkathâyam Hindus were to the remaining population in a minority of 696,414 to 1,668,621, or of forty-two to a hundred,—or rather under 30 per cent.

10. *The Marumakkathâyam Classes.*—Much valuable information regarding the Marumakkathâyam Hindus (Nayars and Tiyaṇs) is contained in the Malabar

District Manual, and in the Article on Malabar in the Imperial Gazetteer. It is undesirable to lengthen this Report by quotations from authorities so well known and readily accessible, and it is only necessary here to point out certain peculiarities which bear on the question of marriage.

11. In the first place all sexual intercourse between the Nayers and Tiyanis is absolutely prohibited.

A Nayar cannot keep a concubine not of the Nayar caste without exposing himself to social excommunication.

12. In the next place it should be noted that the Nayers have split themselves up into scores of sub-castes, some of which by common consent are graded in a settled order of caste-precedence, whilst others dispute their place in the list, each claiming its own caste superiority.

There are amongst the Nayers (in the words of the author quoted at page 12, Appendix I.) "numerous sub-divisions so nice and capricious that the men and women of one caste will not eat meals prepared by the members of another, nor sit for eating together in the same row." Caste precedence amongst these sub-divisions is a burning question, and as there is no authority to settle disputes as to precedence, the first result of such a dispute is that the disputing divisions will not eat together, and this leads to a cessation, and ultimately to a prohibition, of intermarriage.

13. There are many methods of classification adopted by the Nayers which the list of castes in Appendix V. does not exemplify. The higher class of Sudras are called *Kiriyam* Nayers. *Kiriyam* is the (Tadbhavam) corruption of the Sanskrit *Graham* = a house. Thus the *Kiriyam* Nayers are Stewards, and other house—Nayers, who could cook for all those who followed out-door occupations. Each of the petty Rajahs, who ruled Malabar at the time of Hyder's invasion, had his Nayar adherents (*Chârnavar*), and these were divided into *Agatha* (= inside) and *Puratha* (= outside). The *Agatha* performed all menial functions within the palace. The *Puratha* were the warriors and armed retainers, exempted from menial service. Every Kovilagam in Malabar has still its *Agathachârna* and *Purathachârna* adherents, who in theory should look up to the head of the Kovilagam as supreme in all caste matters. Another large division in South Malabar style themselves *Sudra Nayers*. They are independent of the Kovilagams, and are in theory the servants (or *slaves* as they style themselves) of the great Nambudri landlords. Between the *Chârnavar*s and *Sudra Nayers* there is a dispute as to precedence which has resulted in the entire prohibition of intermarriage.

14. Besides the above large divisions there are a number of sub-divisions supposed to follow certain hereditary professions which divide them from the rest and prevent intermarriage.

For example, the *Râvâris* (corruption of *Vyâbâris* = traders) are a numerous division at and near Quilandy, who do not intermarry with other divisions. The *Veuthêdan* (washerman for Brahmans, temples and Nayers), the *Vattêkkadan* (oil-makers), the *Pallichân* (palanquin-bearers of the Rajah and Brahman), the *Andurân* (potters), the *Urâli* (masons), and the *Velakkataravan* (barbers for Brahmans and Nayers) are examples of sub-divisions which usually keep themselves to themselves in the matter of marriage.

15. The *Ambalavâsis* (temple-servants) have originated numerous subdivisions, the members of which now-a-days may, or may not, discharge their allotted functions. Some of the chief are the *Vâriar* (sweepers), the *Chakkiars* (singers and players), the *Mârâns* (drummers), the *Pushpagans* (who provide flowers and garlands). It is amongst these *Ambalavâsis* engaged in pagoda service, and coming thus into closer contact with the Brahmans, that the alleged commandment to disregard chastity is still held in honour.

16. It would be tedious and unnecessary to pursue this enquiry further. Enough has been said to show that by some perversity of fate the Nayar caste has developed the usual Hindu tendency to split up into scores and hundreds of petty divisions, refusing to eat together, or to intermarry, and totally incapable of any united action.

The vexatious restrictions, dissensions, and rivalry arising from these schisms are deeply deplored by the educated and intelligent class, and it is highly necessary to guard, in any legislation that may be contemplated, against perpetuating restrictions on marriage which, though now customary, are disapproved by the Nayars themselves.

17. The answers to Questions 1 and 2 in Appendix III. exemplify the Nayar custom which allows a man to cohabit with a woman considered to be of a lower caste than himself.

The same custom prohibits the female from exercising a similar liberty. This is called the rule of *Anulômam* and *Pratilômam*. Dr. Gundert derives *Anulômam* from *anu* = with + *lômam* = *rômam* = the hair : going with the hair, or grain. So *pratilômam* means "going against the hair or grain."

According to this usage a Nayar woman consorting with a man of a higher caste follows the hair, purifies the blood and raises the progeny in social estimation. By cohabitation with a man of a lower division or caste, she is guilty of *pratilômam*, and if the difference of caste were admittedly great, she would be turned out of her family to prevent the whole family being boycotted. The Nambudris smile at these disputes as to precedence and regard all Sudras as on the same level. A woman disregarding the rule of *anulômam* is therefore not necessarily excluded from the temple, the temple-tank or any religious privileges. Many of the answers show that the rule of *anulômam* is often disregarded in Native Cochin and some adjacent parts of Malabar. The rule is inconsistent with the institution of marriage inasmuch as (in the words of Mr. Sankariah, Dewan Peishkar of Native Cochin) "often the parties to the Sambandham are so widely different in caste that the man must bathe after contact with the woman, before he can pray or take his food."

It often happens that a father could not touch his children without bathing afterwards to remove the pollution.

18. The answers to Questions 6 to 10 in Appendix III. illustrate a strange geographical restriction, which makes the Kora river (flowing into the sea at Elathur about seven miles north of Calicut) a boundary between North and South Malabar for Marumakkathâyam caste purposes, forbids the Nayar women of North Malabar to cross to the south of the river, and prohibits a Sambandham between them and any Nayar from the south of the District.

Nearly all our informants are agreed that the restriction dates from times when the river formed the boundary between two of the petty kingdoms

which divided Malabar prior to the Mahammadan invasion, but why the restriction should be one-sided, and why it should retain its vitality after a century of British rule, is not so plain. The educated class are alive to the absurdity of the custom. It is already transgressed on various pleas—*e.g.*, the plea of pilgrimage, the plea that the river was not crossed but circumvented, the plea that a woman may follow her husband, &c., and there is little doubt that it will shortly be altogether set at defiance when North Malabar men, holding appointments in South Malabar, have to choose between breaking the rule or leaving their families behind them.

19. *The Nambudri Brahmans.*—A few remarks regarding the Nambudris are here required to explain how their teaching and influence, as priests and landlords, have affected the peculiar sexual usages of the Nayars, and have reacted upon themselves.

They must not be confounded with the Pattars, or so-called foreign Brahmans. The Pattars differ in no respect from the Brahmans of the East Coast. They, like the Nambudris, are very willing to lend themselves as ‘consorts’ for the ladies of the Nayar aristocracy, but they are never accepted as such except when the services of a Nambudri are not available.

A full description of the Nambudris will be found at page 119 *et seq.* of the Malabar Manual.

<i>Taluk.</i>	<i>No. of Families.</i>	<i>Taluk.</i>	<i>No. of Families.</i>	The number of families as ascertained by Mr. Logan is shown in the margin. The Census of 1881 makes their number to be, Males 5,716, Females 5,313, (<i>Vide</i> Vol. IV., page 4).
Chirakkal	... 79	Ernad	... 120	
Kottayam	... 30	Walluvanad	... 277	
Kurumbranad	... 70	Palghât	... "	
Wynad	... "	Ponnani	... 289	
Calicut	... 152	British Cochin	... "	
		Total...	1,017	

20. It is only necessary here to remind the Government that by the tradition devoutly believed in by orthodox opponents of change, the Nambudris were settled in Malabar by Parasu Rama, an incarnation of Vishnu, who divided the land amongst them, and created the Sudras to be their slaves. The Travancore Census Report of 1874, page 191, well sums up the orthodox view of the *Nambudri* as shown by the language in which he is habitually addressed. “His person is holy, his directions are commands, his movements are processions, his meal is nectar, he is the holiest of human beings, he is the representative of God on earth.”

Except the Nambudri, the Nayar has no other priestly, spiritual or religious instructor; and it is for the gratification of this Bhû-dêvan (Earth-god) that the Sudra woman, if she has any religious instruction at all, is taught that she was created.

21. As regards the effect of this precept on the morality of the Sudra women more will be said later on, but it is desirable here to note the effect of the system on the Nambudris themselves. To keep the family property impartible, and to guard against an inconvenient increase of mouths to be fed, the “Earth-gods” set up a rule that only the eldest son should take a Nambudri wife, and that all the junior members should solace themselves by forming fugitive connections with Sudra girls. The issue of these fugitive unions following Marumakkathâyam, were no burden upon the Nambudri father, but had to be supported by the Kâranavan (senior male) of the girls’ tarawâd. The defect in this ingenious arrangement is that it leaves out of sight the natural law from which “Earth-gods” are not exempt, and which so arranges matters that there are as many Nambudri women as there

are Nambudri men. The consequence is that while the Nambudri bachelors solace themselves with their Sudra loves, the Nambudri spinsters, secluded and vigilantly guarded in the privacy of their houses, must live and die unmarried.

“In consequence of this custom the females often enter into wedlock at a very advanced age or die in a state of celibacy, but so tenacious are they of their observances that the corpse undergoes all the ceremonies of marriage.” (Census Report of Native Cochin, 1875-76, page 35.) “Many Nambudri women necessarily never get a chance of marriage.” “In order to get their daughters married at all, a Nambudri must be rich, for with each of them he has to pay the bridegroom a heavy dowry, and many an illam’s resources have been drained in this way.” (Malabar Manual, pages 127--128.)

“The Nambudri woman, unlike her Brahmin sisters on the other coast, may remain unmarried even after attaining the age of puberty, and there are many among them who die virgins at an advanced age. Numerous daughters are considered a misfortune, as their dowry and other marriage expenses will impoverish any but the wealthiest Nambudris. They do not, however, kill their children on this account,”—a forbearance for which they no doubt deserve due credit. “The women are guarded with more than Moslem jealousy.” (Travancore Census Report, 1874-75, pages 213—214.) An institution which by debauching the women of one class, condemns the women of another to life-long and enforced celibacy, is not one which justice need hesitate to condemn. If the reform movement set on foot by educated Nayars should eventually have the effect of driving the Nambudri bachelor into wedlock with women of his own caste, this indirect consequence of a marriage-law for Nayars, is one which no right-thinking person can deplore. What (some persons ask) is to become in such case of the Nâduvâzhi (chieftain) and other aristocratic families, who have hitherto preferred Nambudri consorts for their females? It can only be suggested in reply that they should follow the example of many of their number and marry in their own caste.

22. On the Nambudri men the effect of the system has likewise been pernicious. Instead of taking the lead in every intellectual pursuit, as do the Brahmans in other parts, the Nambudri has become enervated to such an extent that it would be difficult to find more than a few who have mastered the grammar and syntax of the Sanskrit, which is the vehicle of their sacred texts. Most of them get no further than committing a number of Slôkas to memory. Not only do they refuse altogether to tread the path of knowledge opened up to them by a barbarian Government, but it is rare to find one of them who has studied the literature, such as it is, of his own vernacular. The proposed legislation undeniably threatens what they regard as their sacred privilege, and it is not to be wondered at that their influence should be exerted to the utmost to prevent reform.

23. *The Marumakkathâyam Tiyans.*—For an account of the Tiyans *vide* page 142 of the Malabar Manual. Out of a total of 551,717 Tiyans (and Izhavars) the approximate number following Marumakkathâyam is, as shown above, 220,445, or about 40 per cent. The circumstances which forced, or led the Tiyans of North Malabar to adopt Marumakkathâyam, are buried in obscurity, and nothing is certain except that nothing on the point can be known with certainty. The Mapillas of North Malabar likewise follow Marumakkathâyam, but in their case this can often be directly traced to the fact that their ancestors were Nayars converted to Islam.

In the early days of British rule the Tiyan women incurred no social disgrace by consorting with Europeans, and up to the last generation, if the Sudra girl could boast of her Brahman lover, the Tiyan girl could show more substantial benefits from her alliance with a white man of the ruling race.

Happily the progress of education, and the growth of a wholesome public opinion, have made shameful the position of a European's concubine; and both races have thus been saved from a mode of life equally demoralizing to each.

24. *The Marumakkathâyam System.*—Marumakkathâyam possesses no Code. In Malabar no extant scripture is attributed to Sri Parasu Rama, the traditional founder of the system, whom the orthodox Malayâli regards as an incarnation of Vishnu,—nor is any writing attributed to the sage Sankarâchâriar, who is believed to be the authority for the sixty-four traditional anâcharâms (or heterodox observances) in which the Malabar Nambudris differ from their Brahman brethren of the East Coast. Prior to the advent of the British there were no courts of justice to record case-law, and the Nambudri Brahmans monopolised the study of the Shastras and were the sole recognized repositories of the unwritten custom of the country. The enquiries of the Commission, in so far as they have been of any avail, merely serve to show that the only known work, supposed to embody the divine commandments of Sri Parasu Rama, is the Kérala Mahâtmyam, upon which the Zamorin and various orthodox Malayâlis rely. The work is composed in Sanskrit verse, and such copies of it as are known to exist are written on palm-leaf in the Malayalam character. The only copy which the Commission were able to obtain was obligingly lent by the Azhuvanjeri Tamburâkkal, a Nambudri dignitary esteemed to be of the highest sanctity, and he informs the Commission that this copy was made 37 years ago from an older grantham (palm-leaf book) which through age was becoming undecipherable, and which is now lost. No information whatever is forthcoming as to the authorship of the poem, or as to its date; and the language and character in which it is written have prevented the Commission, during the short time at their disposal, from submitting it to a critical examination.

The poem is divided into chapters and purports to be a monologue addressed by the Rishi Garga to Yudhishtira, the eldest of the Pandus. Each chapter winds up with a refrain to the effect "Thus ends chapter—of the discourse of Garga to Yudhishtira in the Bhugola Purânam."

A translation of one version of Chapter XLIX., which is referred to by the Zamorin and others, is given in the answers of Mr. K. Krishna Menon, No. 33 of Appendix III. There are probably several versions, but in substance the chapter contains a mythical account of how certain celestial damsels were brought from Indra's world by Parasu Rama to satisfy the sexual cravings of the Kéralam Brahmans, and it recites how Parasu Rama at Vishabhadri (Trichur) pronounced his commandment to the women (not being of the Brahman caste) to satisfy the desires of Brahmans, enjoining upon them to put off chastity and the cloth which covered their breasts, and declaring that promiscuous intercourse with three or four men in common was void of the least taint of sin.

The book would be unworthy of notice were it not relied on as an authority by many champions of Marumakkathâyam, and were it not that it correctly exhibits the religious teaching of the Nambudri priesthood even at the present day. In illustration of this, reference should be made to the evidence of Ashtamurthi Nambudripad, whose answers are printed as No. 8 in Appendix III. This

gentleman is one of the foremost Nambudris in Malabar in respect of wealth, rank, sanctity and learning, and it will probably be allowed that there could be no better, or more candid, exponent of the orthodox doctrine. He says :—"The Smrithi says, "the Sudras' appointed path to heaven is serving the Brahmins." "The practice of Brahmins, Kshatriyas and Vaisyas having sexual intercourse with servile (Sudra) women is in accordance with the Sâstras." "If a Brahmin wished to have sexual intercourse with a Sudra's wife, the Sudra would be bound to gratify the wish." And again :—"A Sudra cannot be sure of the true parentage of the children born of his wife. Hence the Sudras cannot follow the rule of Makkathâyam."

• This exposition has the full support of the highest possible authority from a Marumakkathâyam standpoint. The Zamorin Maharaja Bahadur (Appendix III., No. 1) tells us :—"According to Parasu Rama only the eldest son of a Brahmin family is permitted to marry. The other members may keep females of the lower castes, and chastity should not be observed by Non-Brahmin females."

So Ettan Tamburân Avargal, a learned Sanskrit Scholar and Senior Anandiravan of the Padinyâré Kovilagam, tells us :—"It has been ordained by Parasu Rama that in Kérala, Marumakkathâyam women need not be chaste, and that the non-observance of chastity should entail no evil" *—(Appendix III., paper 5, answer 11). So the Kolathur Vâriyar, a great landlord well known in connection with Mapilla outrages, says :—"A woman is not forbidden from consorting with more than one man." "For the Marumakkathâyam people, who reckon their descent through the female line, there is no objection to any cohabitation which does not contaminate the female element"—(Paper 9, answers 22 and 23). Sir Madhava Rao takes for granted this rule against female chastity when he claims it as one of the great benefits conferred by Marumakkathâyam that "it has ensured the peaceful operation of the great principle of natural selection." (*Vide* Appendix IV., evidence of witness 119, page 88.) Thus in the supposed commandment "let chastity be far from you: not the least sin attaches to its non-observance," we have admittedly the very foundation and corner stone of the Marumakkathâyam system.

25. *Polyandry*.—As to the origin of polyandry amongst the Nayars, the Commission finds itself unable to throw any fresh light upon the subject. Mr. Wigram's conjecture that the Nayars "entered Malabar from the North and peopled first the Tulu and then the Malayalam country," seems inconsistent with the fact that the Nayars speak the purest Malayalam, and that Malayalam is very much closer akin to Tamil than to either Tulu, or Canarese, spoken in South Canara. If the Nayars entered Malabar from the North they must surely have brought some words with them which would have disclosed their affinity to some Northern people, whereas their language merely discloses a close affinity to Tamil, and raises the presumption that they entered Malabar through the Palghât Gap.

The theory that polyandry was indigenous in Malabar is not easily reconcileable with the fact that the Cherumars, Pulayars, Panayars, Irulars, Kâdars, and numerous other servile and jungle tribes, who are looked upon by every one as the undoubted aborigines, do not follow Marumakkathâyam. The

* NOTE.—He quotes a sloka of which the following is a translation :—

"Among the folk of this land, in this my country, among all castes, among all Sâmantas, and among all other women likewise, let there be no chastity. But as for the wives of Brahmins and *Dwijas* (twice-born classes) let the rule of chastity stand in regard to them. With other residents let there be no rule of chastity. Behold I declare the truth."

theory that the first Nayar immigrants came as an army with very few women, who therefore had to be shared amongst the men, is also a mere conjecture.

26. Questions 23 and 24 in Appendix III. were directed to discover the correctness, or otherwise, of the notions entertained by European writers who, like Mr. Mayne, speak of "polyandry of the Nayar type."

The answers display a healthy and almost unanimous detestation of the practice of polyandry, and nine-tenths of our informants would have it believed that polyandry amongst the Nayars is as extinct as the dodo.

If by polyandry we mean a plurality of *husbands*, publicly acknowledged by society and by each other as sharing between them a woman's favours by mutual agreement,—the legal and regulated possession, publicly acknowledged, of one woman by several men who are all husbands by the same title,—it may be truly said that no such custom is now recognized by the Marumakkathâyam castes in Malabar. If by polyandry we simply mean a usage which permits a female to cohabit with a plurality of lovers, without loss of caste, social degradation, or disgrace, then we apprehend that this usage is distinctly sanctioned by Marumakkathâyam, and that there are localities where, and classes amongst whom, this license is still availed of. Amongst our witnesses an intelligent and candid minority,

1, 5, 12, 13, 14, 15, 18, 20, 21, 31, 51, 53, 57, 59, 93, 98, 101, 155, 180, 191, 192, 194, 208, 209, 210, 214, 215, 217, 220, 226, 235, 237, 246, 247, 251, 258, 261, 264, 269, 280, 281, 286, 287, 288, 290, 291, 295, 301 and 305.

most of them men of mark and position, admit the right of the woman to consort with more than one man. To facilitate reference their serial numbers as given in Appendix II. are given in the margin.

27. *Marumakkathâyam "Marriage" Customs.*—We proceed to set forth what we have to say on the first head of our enquiry, *viz.*, as to what are the customs connected with Marumakkathâyam Hindu marriages in Malabar.

The very ground and occasion of our enquiry is the allegation that amongst the Marumakkathâyam castes, there is no such thing as marriage in the eyes of the law, and the phrase "customs connected with marriages" therefore suggests two difficulties.

In the first place it begs the question at issue, and thus suggests an initial difficulty, which is the want of suitable and inoffensive English terms to denote the customary cohabitation of the sexes under the Marumakkathâyam law, and the cohabiting parties.

To start by calling such cohabitation *marriage*, and the customs regulating it, *marriage* customs is a *petitio principii* which is likely to lead to confusion, but which it is not easy to avoid. Some have not scrupled to call the man a "paramour," the woman a "mistress," and the cohabitation "a fugitive connexion." "Consort" may do well for the royal families, but is ridiculous when applied to lower classes. "Concubinage" and "Concubine" (terms sometimes adopted by the High Court) convey reproach. "Lover," "gallant," "partner," are all objectionable.

In this difficulty it has, out of courtesy, become the practice to acquiesce in, and adopt, the use of the term 'marriage' instead of "fugitive connexion," and of the terms "husband" and "wife," instead of "paramour" and "concubine."

28. The Marumakkathâyam Hindus never in Malayalam apply the term "marriage" to the union of man and woman. The abstract Malayalam terms for

“marriage” are *Vivâham* and *Kalyânam*. The former term is never used (or until the last few months was never used) of a Marumakkathâyam union: the latter is used to denote the ceremony of tying on the tâli (or marriage badge) which is now admitted to be merely a mock marriage, as will be explained further on.

Amongst Makkathâyam Malayâlis the common term for “to marry” is *kettuga*, to tie. The husband is “Kettiyavan” = he who is tied to you, and the “wife” is “Kettiyaival” = the woman tied to you.

These expressions are never used by Marumakkathâyam people in speaking of their own sexual relationships.

The general Marumakkathâyam term to denote that a man and woman are “joined together” in a manner socially approved, is *Sambandham*, a Sanskrit word used to express various sorts of connexion. Thus there is *rakta-sambandham* = blood-connexion: *mudal-sambandham* = property-connexion: *pula-sambandham* = connexion by pollution, and between a man, and the woman with whom he avowedly cohabits, the connexion is called *Sambandham* without qualification.

In their interrogatories the Commission have used the term *Sambandham* to denote the customary nuptial union of man and woman, but suitable English terms are still wanting to denote the parties, and eventually the Commission have, for the sake of convenience, and to avoid offence, used the terms “husband,” “wife,” and “marriage” in inverted commas, the inverted commas being meant to show that the words are used in a Marumakkathâyam sense.

29. The next difficulty is to clear our ideas as to what we mean by marriage, for until this is done it is impossible to say whether Marumakkathâyam does, or does not, possess the institution.

What is the essential difference between a wife and a concubine? Can a connexion which is dissoluble without formality at the will of either party, which confers no legal rights and imposes no obligations on the man, amount to marriage?

In this matter we are inclined to agree with the view expressed by Sir FitzJames Stephen in his speech before the Legislative Council reported in the Gazette of India, January 27th, 1872, page 75.

He says:—“Most people regard marriage as a contract and something more; but I never yet heard of any one who denied that it is at all events a contract, and by far the most important of all contracts. It is certainly not regarded in this country, in all cases, as a contract between the persons married, as it is in Europe, but it certainly is regarded as a contract between some persons, the parents of the parties, or the parents of the girl and the husband. Whatever words we may choose to employ, it is clear that all the elements of a contract must, from the nature of the case, be found wherever a marriage occurs. There must be an agreement, there must be a consideration for that agreement, and there must be, as a consequence, a set of correlative rights and duties.”

A contract is an agreement enforceable by law (Contract Act IX. of 1872, Sec. 2) and if we can discover such an agreement in the form of nuptial union sanctioned by Marumakkathâyam custom, we shall have ascertained that there is a Marumakkathâyam marriage and not otherwise.

30. Amongst Marumakkathâyam marriage customs the most peculiar, distinctive and unique is the Tâli-kettu-kalyânam,* which European and Brahman writers have united in describing as the only marriage recognized by the system.

The term Tâli-kettu-kalyânam means 'marriage by tying the tâli.' The tâli is a small golden ornament worn on the neck, as the badge of marriage, by all women of the Dravidian races.

The details of the ceremony differ widely in different parts of Malabar, and it might almost be said that every large Tarawâd has its own way of celebrating it.

The following account is given by M.R.Ry. K. R. Krishna Menon, retired Sub-Judge :—

The Tâli-kettu-kalyânam is somewhat analogous to what a Dêvadâsi (dancing girl attached to pagodas) of other countries undergoes before she begins her profession. Among royal families, and those of certain Edaprabhus, a Kshatriya,—and among the Chârna sect, a Nêdungâdi,—is invited to the girl's house at an auspicious hour appointed for the purpose, and in the presence of friends and castemen ties tâli round her neck and goes away after receiving a certain fee for his trouble. Among the other sects, the horoscope of the girl is examined along with those of the boys of her Enangan (a reconciled member of one's own clan) families, and the boy whose horoscope is found to agree with her's, is marked out as a fit person to tie the tâli, and a day is fixed for the tâli-tying ceremony by the astrologer, and information given to the Kâranavan of the boy's family. On the appointed day the boy is invited to a house near that of the girl, where he is fed with his friends by the head of the girl's family. The feast is called "Ayani Ūnu," and the boy is thenceforth called "Manavâlan" or "Pillai" (bridegroom). From the house in which the Manavâlan is entertained, a procession is formed preceded by men with sword and shield shouting a kind of war-cry. In the meantime a procession starts from the girl's house, with similar men and cries, and headed by a member of her Tarawâd, to meet the other procession, and after meeting the Manavâlan, he escorts him to the girl's house. After entering the pandal erected for that purpose, he is conducted to a seat of honor and there his feet are washed by the brother of the girl, who receives a pair of cloths on the occasion. The Manavâlan is then taken to the centre of the pandal where bamboo-mats, carpets, and white cloths are spread, and seated there. The brother of

* NOTE.—It is to this ceremony that Buchanan (1801) obviously alludes when he says "The female Nayers, while children, go through the ceremony of marriage both with Nambudris and Nayers; but here, as in the South, the man and wife never cohabit." (Appendix I., page 2.)

So the Rev. Christian Irion, writing on North Malabar, in 1864, says :—

"For a Sudra maiden the marriage ceremony is performed by some Brahman before she attains puberty," (page 5).

The Rev. Mateer, writing of the Travancore Nayers, in 1870, says :—"In early youth the girl goes through the ceremony of marriage by having the tâli, or marriage cord tied round her neck, but this is not followed by cohabitation." Mr. Nagam Iyer, Brahman Dewan Peishkar of Travancore, writing, in 1876, describes the Tâli-kettu ceremony as the marriage; but explains that it confers no right of cohabitation on the bridegroom, and states that "when she (the bride) attains the age of puberty she chooses her husband of her own free accord." Mr. Sankariah, Brahman Dewan Peishkar of Native Cochin, writing, in 1876, says :—"The (Nayar) women pass through the religious rites of marriage in the same way as all other Hindus, but they are united then to a symbolical husband and not to a particular individual."

The anonymous Nayar author, quoted at page 11, Appendix I., adopts without comment or protest, the description given in the Travancore Census Report of the Tâli-kettu as constituting a Nayar girl's marriage. He adds on his own authority "The Tâli-tier in some cases becomes her husband. If not, when she attains puberty her parents, or uncle, choose for her a husband and she accepts him."

"Every Nayar girl," says Mr. Logan, "is married in one sense at a very early age." "The strange thing about it all is that the girl is not really married to the man who performs the tâli-tying ceremony."

Herr Starké (page 13, Appendix I.) says :—"It is impossible not to regard the ceremony by which a girl is dedicated to what is according to our ideas an unchaste life, as a wedding ceremony which has been degraded into a mere formality."

Mon. Elie Reclus, in describing the Malabar marriage, is of opinion that "the nuptials are here interposed only to emancipate the woman and introduce her into the world." "Provided she wears her tâli round her neck, she is free from conjugal bonds."

the girl then carries her from inside of the house, and after going round the pandal three times, places her at the left side of the Manavâlan, and the father of the girl then presents new cloth tied in a kambli to the pair, and with this new cloth (technically called "Manthravadi") they change their dress. The wife of the Kâranavan of the girl's Tarawâd, if she be of the same caste, then decorates the girl by putting anklets, &c. The Purôhit, called "Elayath," (a low class of Brahmans) then gives the tâli to the Manavâlan, and the family astrologer shouts "Muhûrtham" (auspicious hour) and the Manavâlan, putting his sword on the lap, ties tâli round the girl's neck, who is then required to hold an arrow and a looking-glass in her hand. In rich families a Brahmini sings certain songs intended to bless the couple. In ordinary families who cannot procure her presence, a certain Nayar who is versed in songs performs the office. The boy and the girl are then carried by Enangans to a decorated apartment in the inner part of the house where they are required to remain under a sort of pollution for three days. On the fourth day they bathe in some neighbouring tank or river, holding each other's hands. After changing cloths, they come home preceded by a procession which varies in importance according to the wealth of the girl's family. Tom-toms and elephants usually form part of the procession, and saffron water is sprinkled. When they come home the doors of the house are all shut, which the Manavâlan is required to force open. He then enters the house and takes his seat in the northern wing thereof. The aunt and other female friends of the girl then approach and give sweetmeats to the couple. The girl then serves food to the boy, and after taking their meals together from the same leaf, they proceed to the pandal, where a cloth is severed into two parts and each part given to the Manavâlan and girl separately in the presence of Enangans and other friends. The severing of the cloth is supposed to constitute a divorce." (*Vide* Appendix III., no answer.)

The 2nd witness (Appendix IV.) gives an account of how the Tâli-kettu is performed in North Malabar, and numerous other versions will be found in the answers to Question 11 in Appendix III.

31. We deem it due to M.R.Ry. C. Karunagara Menon, B.A., (Sub-Editor of "The Hindû"), one of the most active and enthusiastic defenders of existing usage, to quote his explanation of the ceremonial. He writes:—

"The Tâli-kettu-kalyânam does not differ in any essential respect from the marriage ceremony among the Hindus. All available evidence unmistakably points to the conclusion that the Kettu-kalyânam is in intention, if not in effect, the actual marriage ceremony as among other Hindus. With one exception, there is little difference in the ceremonies, that exception being that, while Brahmans recite the Vedas and Mantrams, we are compelled to substitute for them what is called Brahmini pâttu (song by Brahmini). In singing her songs, the Brahmini must regulate her voice so as to make it harmonise with the time in which the Rig Vêda is recited; or, in other words, she should sing her songs in Rig Vêda swaram. The Brahmans alone being privileged to recite Vedas and Mantras, it was ruled that for other classes, the Kshatriyas and Sudras, the Brahmini pâttu sung in Veda swaram, would be a sufficient substitute. From the time when Kettu-kalyânam came into existence in Kêralam, the Brahmini pâttu has also been in existence. The following are some of the verses recited on the occasion of Kettu-kalyânam; and they will show that the Kettu-kalyânam is not such a meaningless ceremony as has been vulgarly supposed:—

"The weaver has spun the white and red threads, and in the wedding pandal the Veda Brahmini has twisted them into cords. She has bound them as an armlet on the right hand of the virgin (saying) 'May the thread be your constant light and may you live a hundred years in the enjoyment of a married life. May the possession of husband and happy children be yours. May you have children as numerous as paddy counted, and life for years as numerous as rice counted.'"

2. "The pandal has been six months in building and the kettle drums announce (the festival). There is a banqueting hall, and a bed chamber. The Mala is put around the neck of the sweet-voiced damsel, and as they lived there happily as husband and wife, so let these live here long in the enjoyment of happiness."*

* NOTE.—Translated by the Commission.

The above lines all speak of the preparations for marriage, the union of the bride and bridegroom, their happy married life and so forth. The concluding lines in the first express the wish that the bride may long enjoy conjugal happiness, that a number of children be born to her and that she may live long. Those in the second are to the effect that as Râma and Sitha (in Râmâyanam) lived happy there after their marriage, so may this couple here live long and happy. It must be noted that among all higher caste Hindus, the marriage ceremony is divided into two parts, *viz.*, (1) that in which the religious ceremonials form the chief feature, and which is known as betrothal, and (2) that which is popularly known as consummation. As among other Hindus, so among Marumakkathâyam followers, the first part which is more important from a religious point of view than the second, must be performed before the girl shows the first signs of menstruation, since in default the girl becomes subject to excommunication; and no girl can be married before the performance of this ceremony. The second or the consummation ceremony among Hindus in general may take place either on the fourth day after the religious ceremony, or on any other auspicious day selected afterwards. The same is the case among the Marumakkathâyam followers. It will hence be seen that the only difference between Marumakkathâyam men and other Hindus in respect of the marriage ceremony is that while the latter perform the ceremony after selecting a husband, and postpone the union of the couple for a future date, *i.e.*, when the girl attains puberty, the former perform the ceremony first and select the husband (in the large majority of cases) only on the second occasion, *i.e.*, when the girl is fit to be united to her husband. The Manavâlan in the Tâli-kettu ceremony merely performs a vicarious part for the future husband. But when a husband is ready to hand, it is not unusual for the girl to be actually married on the occasion of the Tâli-kettu. The reason for this departure from the ordinary Hindu custom, seems to me to be, that our early law-givers in view of the scarcity of men and the consequent difficulty of securing a husband for every girl before puberty and the danger of girls being outcasted in default, devised this happy plan,—to allow every girl to be married, in a sense, with the necessary religious ceremony, and to enable her to remain unmarried for life without being subjected to excommunication from caste. This view receives much support from the fact that the Nayers were, till the British advent towards the close of the last century, a great fighting race, and that they often lost lives in their frequent wars with the neighbouring principalities and tribes. Nor is this the only Hindu custom in regard to which the letter of the law has been closely followed without a corresponding adherence to its spirit. Among the Nambudris who are admittedly the holiest and purest of Indian Brahmans, the women are allowed to remain unmarried for life without being excommunicated, and as if to make tardy retribution to women who die unmarried, the corpse cannot be buried till a *Tâli* string is tied round the neck of the corpse, while lying on the funeral pile by a competent relative. (*Vide* Logan's Manual, page 127.) Similarly in other Hindu customs also it will be found that while the letter of the law is strictly adhered to, the spirit is sometimes lost sight of or is not observed." (*Vide* Appendix III., no answer.)

Thus the best that can be said of the ceremony by one of its most intelligent supporters is that the sham betrothal of a girl to a vicarious husband is her actual marriage ceremony, in which religious ceremonials form the chief feature; and that it 'is a happy plan' devised in order to allow every girl to be married, 'in a sense,' although she has no husband.

We do not think that this view differs widely from that of the European writers who have supposed that Marumakkathâyam usage intends the Tâli-kettu to be the only ceremony which a girl approaching womanhood needs to fit her for cohabitation with one or more men of her own or higher caste.

32. Of our other Malayâli informants some think it is a marriage: some think it is not. Some call it a mock marriage, a formal marriage, a sham marriage, a religious marriage, a fictitious marriage, a marriage sacrament, the preliminary

part of marriage, a meaningless ceremony, an empty form, a ridiculous farce, an incongruous custom, a pretence, a waste of money, and a device for becoming involved in debt.*

* NOTE.—The Erâlpâd Raja (Zamorin's next heir, and head of the Kottakkal Kovilagam) says :—

“The Kalyânam is not a *vivâham* (marriage) which entitles the man who ties the tâli to lordship over her. It merely entitles the girl to a right to cohabit with a man.” He tells us (answer 20) that in parts of South Malabar no formalities are observed in forming ‘Sambandham,’ beyond obtaining the consent of the relatives; whilst in other parts, when the man and the woman are of the same division, the Brahmans are feasted and some charity is also given. He admits the right of the woman to a plurality of ‘husbands’ provided she has the consent of the first Sambandhakâran, and quotes chapter 49 of the Kêrala Mahatmyam as the authority.

The Valia Tamburan of the Western Kovilagam tells us that the performance of the Tâli-kettu indicates that the girl has attained marriageable age and that it consists in tying of the tâli, at the auspicious moment, with marriage rites and adorations to the Deity. He states that the ceremony creates neither the right nor the disability to form Sambandham; and does not attempt to explain what ‘marriage rites’ mean.

The Chirakkal Rajah, in common with other North Malabar authorities, tells us that this is a ceremony which girls between 9 and 11 years of age have to undergo, and that the occasion is celebrated with feasting and much splendour. He leaves us in the dark as to its meaning.

The Rajah of Kadathanâd tells us that “it is a preliminary rite to marriage,” but is silent as to its object.

It is to the *Tâli-kettu-kalyânam* that Mr. Sankariah, the learned Brahman Lewan Peishkar of Native Cochin, (who has nearly 30 years’ acquaintance with Marumakkathâyam usages) alludes in para. 4 of his Memo. as the girl’s “marriage sacrament,” and the term ‘Sambandham’ he tells us “denotes sexual attachment as distinguished from religious marriage, or conjugal rights.”

The Manjêri Kâranampûd, (a Sthâni, and large landed Proprietor in Ernad) tells us that the *Tâli-kettu* takes the place of the rite of marriage (*Vivâham*) among the Brahmans. To the question whether it confers on the *Tâli-tier* the right of cohabitation with the girl, he returns an answer in the affirmative; and to the question whether any further formalities are requisite to form Sambandham, he replies “ceremonies are required if the man is not the one who tied the tâli.”

Atchudan Somayâjipâd (Nambudri landlord and Vaidîgan) says :—*Tâli-kettu-kalyânam* is the way by which marriage (*Mangalyam*) is effected among people following the Marumakkathâyam law. He says that no further formalities are necessary to entitle the woman to consort with as many men as she pleases.

Mr. Chathu Nambiyar, District Munsiff, says :—“*Tâli-kettu-kalyânam* is the formal, or preliminary part of the marriage,” “after the *Tâli-kettu* ceremony is over the girl attains the rank of woman and becomes eligible for marriage proper.”

Mr. T. Kunhi Raman Nayar (Judge of the High Court Travancore) says :—

“*Tâli-kettu-kalyânam* is the investiture of a girl with tâli (marriage badge) in token of the girl having attained a marriageable age, and been betrothed to some one.” “There is in my view no valid reason why the tier of the tâli, or Manavâlan, should not have the right to cohabit with the girl, when the proper time for consummation of a marriage arrives. and it is to be devoutly wished that some system by which the original intention involved in the celebration of *Tâli-kettu* ceremony can be fully carried out, could be devised.”

Mr. E. K. Krishnan (Sub-Judge) :—“A regular marriage ceremony except that the person selected to tie the tâli is not necessarily the husband of the girl.” Mr. T. Gopalan Nayar (Deputy Collector) :—“The ceremony is an exact representation of marriage, and the tâli is the recognized emblem of married life.” “The original and borrowed signification of the ceremony is lost and *Kalyânam* now remains an unmeaning and superfluous formality.” Mr. V. Chappan Menon (Deputy Collector) :—“The *Tâli-kettu-kalyânam* is practically a marriage without being followed by consummation, and the songs sung on the auspicious (?) occasion denote that it is intended as a wedding.”

Mr. P. K. Kelappa Kurup (High Court Vakeel) :—“What the real signification of the *Kettu-kalyânam* is, is not very clear.”

Mr. U. Achudan Nayar (District Munsiff) :—“Every girl must undergo this ceremony. In this respect we follow the other Hindus, but it is deprived of its solemn and binding character by the subsequent procedure sanctioned by custom.”

Mr. Kotieth Ramunni (1st grade Pleader) :—“The *Tâli-kettu-kalyânam* is the substitute for the Brahman *Vivâham* (marriage).”

Mr. P. Kunhambu (2nd grade Pleader) :—“A sham imitation of Brahminical ceremony of performing marriage.”

Mr. M. Gopala Menon (1st grade Pleader) :—“*Tâli-kettu-kalyânam* is, I should think, from the customs even now observed, the ceremony intended as the real marriage.”

Mr. C. Gopalan Nayar (Tahsildar) :—“To satisfy the Sudras, the Brahmans, who had then the upper hand in every thing, invented an apology for marriage with which the Sudras were to be content.”

Mr. Onden Raman (Taluk Sheristadar) :—“An imitation of the marriage ceremony of the Brahmans.”

Mr. Amba Nayar (Sub Registrar, Ponnani) :—“*Tâli-kettu* is considered among Nayers to be the formal marriage of girls.”

Mr. Kolâdi Krishna Menon (Veliyangode Amsam, Ponnani Taluk, Janmi) :—“It is a pretence of a man making a woman his wife, and a device for becoming involved in debt.”

Mr. Kuthâmballi Krishnan Nambiyar (Guruvayur Amsam, Ponnani Taluk, Janmi and District Board Member) :—“It is nominally a marriage.”

While a small minority of strict conservatives still maintain that the Tâli-kettu is a real marriage intended to confer on the bridegroom a right to cohabit with the bride, an immense majority describe it as a fictitious marriage, the origin and meaning of which they are at a loss to explain; and another large section tender the explanation accepted by our President, *viz.*, that in some way or other it is "an essential caste observance preliminary to the formation of sexual relation."

33. Whatever the origin of the ceremony, and whatever its significance in times past, the evidence we have collected demonstrates that the present generation

Mr. T. M. Appu Nedungâdi, B.A., B.L., (1st grade Pleader, Calicut) :—"It is a mock marriage."

Mr. C. P. Govinda Tarakan (2nd grade Pleader, Angalipuram) :—"It is a mock marriage."

Mr. B. Kumâra Menon (2nd grade Pleader, Calicut) :—"It has been converted into a mockery, sham, and apology for a marriage."

Mr. Kannan Unni Nayar (2nd grade Pleader, Palghât) :—"It is nothing but a meaningless ceremony."

Mr. B. Ramunni Menon (1st grade Pleader, Calicut) :—"It is a mockery for marriage."

Mr. V. M. Govinda Menon (1st grade Pleader, Palghât) :—"It is a ceremony of freeing the girl from Gods who are supposed to lay claim to every virgin."

Mr. N. K. Chamu Menon (Sub-Registrar, Perintalmanna) :—"It is "a mock marriage attended with ridiculous travesty of much of the formalities of a Shastraic Hindu wedding, probably devised by the Nambudri law-giver for his slave."

Mr. K. Dâmodera Panikkar (Sub-Registrar, Chevayur) :—"It is "an imitation of Brahman marriage without the religious force." "Grand feast lasts for 4 days to the utter ruination of the tarawâds."

Mr. Kizhur Edathil Kunhi Raman Vâzhuṇṇavar (Veliyambra, Kottayam, Sthâni and Janmi) :—"It is a ceremony performed in place of marriage. It partakes of the nature of a wedding, but the ceremony is devoid of meaning."

Mr. C. M. Krishnan Nayar (1st grade Pleader, Palghât) :—"The authors of this ridiculous farce must have had motives of their own why the tâli-tying man should not have any such right (of cohabitation)."

Mr. K. Ramunni Kurup (Sub-Registrar, Panur) :—"Tâli-kettu kalyâṇam is a form of mock marriage whereby the followers of Marumakkathâyam observe the marriage customs laid down in the Hindu Shastras, that a girl loses her caste if she is not married before she attains puberty."

Mr. P. Ramunni Menon (Sub-Registrar, Malapuram) :—"It is a ceremony in which much money is also wasted, but the whole affair becomes a sham and mockery when it is remembered that the position assigned to the bridegroom is little better than that of a day labourer who is dismissed with his wages when the day's work is over."

Mr. M. Krishnan, B.A., (Malayalam Munshi, Presidency College) :—"Tâli-kettu is in many respects analogous to what takes place in connection with real marriages in other places in India. Though the people of Malabar were persuaded to accustom themselves to the "anâchâram" arbitrarily introduced into this country, they could not help keeping up at least the empty form."

Mr. P. Govinda Menon (Sub-Registrar, Audathode) :—"The ceremony is nothing but a farce wherein the bride after having gone through several trivial formalities is given in marriage by her uncle to her presumed bridegroom."

Mr. M. C. Kannan Nambiyar, B.A., (Head-master, Municipal High School) :—"As practised at present it is nothing but a farce blindly observed simply for the reason that the ancestors did it."

Mr. M. Ittinikanda Panikkar, B.A., (Translator, High Court) :—"It is "a mock ceremony conferring no real right whatever."

Mr. K. Raman (Police Inspector, Cannanore) :—"It is an incongruous custom, fit for nothing but ridicule." "As far as I understand it, the ceremony from beginning to end declares that in the space of four days the girl has bathed after menstruation, has received a husband, that they have enjoyed each other as man and wife, and that they have undertaken household duties as father and mother." "Altogether it may be said to resemble the nuptials in a dramatic entertainment."

Mr. T. Madhava Menon (Revenue Inspector, Palghât Taluk) :—"It is a fictitious marriage ceremony among Hindus under the Marumakkathâyam system."

Mr. K. Gopala Menon (Sheristadar, Wynad Taluk) :—"The bridegroom is like any other man to the bride afterwards. It is mere waste of money and will be a great boon to society if it is done away with altogether."

Mr. P. Gopala Menon (Vernacular Record Keeper, Huzur) :—"Tâli-kettu kalyâṇam is a mere formality. It is one of the greatest and all engrossing ceremonies among the Nairs of Malabar, which often exhausts the earnings of a life-long labour."

Mr. K. Govinda Menon, B.A., (Head Clerk, Head Assistant Collector's Office) :—"Formerly among Nairs Tâli-tying ceremony was the actual marriage, but Nambudris for their own reasons did not relish the custom, and through their influence the Nayars were compelled to do away with the spirit, and retain the form."

Mr. C. Krishnan Nayar (Revenue Inspector, Walluvanad) :—"It does not give a right to cohabit with the girl, because the Nambudris want her to be kept as their concubine."

Mr. Valia Raman Adiyodi, Kottayam :—"The Tâli-kettu is a *Samskâram* (atonement?) appointed for Dâsis (handmaids?) to remove the dôsham (evil) which would otherwise attach to Brahmins, arising from the necessity of their cohabiting with Dâsis, because only the eldest son can marry."

for the most part blindly follow what they believe to be the custom, without in the least understanding what they are doing. The variety of ways in which the ceremony is now-a-days performed need not bewilder or mystify us, when we find the most intelligent Malayâlis admitting that the ceremony has entirely lost all meaning.

In parts of Calicut, Ernad, Walluvanad, Palghât and Ponnani, the Tâli-kettu is still celebrated with every formality of a real marriage. A bridegroom is selected after consultation of horoscopes. He is seated by the bride in the marriage pandal. He invests the bride with the badge of marriage. The bride eats from the same leaf as the bridegroom. They are placed together in the sleeping chamber to go through the fiction (it is only a fiction) of cohabitation, and on the fourth day the bridegroom severs his connection with the girl by the symbol of cutting into two pieces the cloth with which she is covered. Yet notwithstanding this 'divorce,' custom obliges the girl to observe pollution when her bridegroom (Manavâlan) dies, and the Nambudris for some purposes regard her as a widow.

34. In North Malabar (as Mr. Chathu Nambiyar tells us, App. III., No. 18, answer 12) the tâli is tied 'by a respectable, holy, learned, and elderly Brahman.' The champions and defenders of North Malabar usage would make believe that there is some stain, or impurity, attaching to a maiden (Kanyaga) which the Tâli-kettu ceremony is designed to remove. By going through a fiction of betrothal, and by having the badge of marriage tied round her neck, a maiden becomes purified, and fit to go through the further ceremonies which should attend 'Sambandham.'

The English Commissioner thinks that most Europeans will probably find this explanation of the ceremony unintelligible, and that they will persist in regarding the Brahman tâli-tier as a relic of the time when the Earth-gods were entitled to the first-fruits, and when it was considered the high privilege of every Sudra maid to be introduced by them to womanhood.

35. In North Malabar (and elsewhere) a woman of the Nambisan caste is engaged to sing nuptial songs, and plays an important part in the Tâli-kettu ceremony. It is noticeable that she is called the 'Brahman lady' (Brahmini) though she is not of the Brahman caste. Possibly by a fiction she is imagined to represent the female relatives of the Brahman bridegroom, who would otherwise be conspicuous by their absence. It is not easy to account for her title of Brahmini in any other way.

36. Some divisions of Nayars prefer to have the marriage-badge tied on by a Kshatriya, or Sâmanthan; and there is, in such cases, no objection to one man tying the tâli on any number of girls at the same time and place. Some of the witnesses explain that this is by virtue of the Kshatriya's royal descent, which makes him a licensed, or privileged, polygamist. Others show that if this be the explanation, it is now lost sight of inasmuch as one man may tie the tâli on mother and daughter, or on several sisters, which if he were husband would be incest.

37. Others tell us that where the family is poor, a bridegroom is sometimes altogether dispensed with. The girl's mother makes an idol of clay, adorns it with flowers, and invests her daughter with the Tâli in the presence of the idol.

This would seem to be an almost exact counterpart of the consecration of the East Coast Déva-Dâsi (God's handmaiden) to her profession as a temple prostitute.

38. The Marumakkathâyam Tiyans in this, as in other respects, have copied the higher castes, with such variations as were pleasing to themselves. Amongst the Tiyans the girl is invested with the tâli either by her mother (in which case the ceremony is meaningless), or by the man to whom she is really betrothed and who afterwards becomes her husband. This latter practice is becoming the fashion, and where it is followed we have a true marriage ceremony, with this rather important exception that the union is dissoluble without formality at the will of either party, and that it confers no legal rights on the 'wife,' and imposes no marital, or paternal, obligations on the man.

39. The demands of society, *first* that the ceremony should be performed before a girl attains puberty, and *second* that it should be the occasion of a mighty feast, when the voice of thrift and prudence should be silenced, have so worked that a custom is now growing of regarding the Tâli-kettu as a Tarawâd ceremony to be performed at intervals of ten years, like a sort of gaol-delivery, upon all the girls of the family at one time, from the infant at the breast to the girl (who in the native view) is on the threshold of womanhood.

This is the occasion which (as the Travancore Census Report, page 266, tells us) "oftentimes exhausts the earnings of a lifelong labour." The Commission were asked at Palghât whether they could not manage to bring in a section to restrain society from driving Tarawâds to ruin by aiding and abetting a wasteful outlay on Tâli-kettu festivities! 'One touch of nature makes the whole world kin,' and this desire for legislative interference will wake a chord of sympathy in the breast of many a slave to fashion.

40. From one point of view the Tâli-kettu, as now celebrated, may be regarded as a valuable device for avoiding the evils of child-marriage. When the baby in arms has gone through the Tâli-kettu and been invested with her 'marriage badge,' society permits her to grow-up and remain a virgin till a suitable match is found for her.

On the other hand there are manifest symptoms that as a preventive of child-marriage it is inefficacious. According to recent practice, wherever two families think it desirable that an alliance should be arranged between a boy of the one family and a girl of the other, a Sambandham is forthwith celebrated with the usual festivities; without regard to the maturity of the girl, and in many instances the girl is forthwith sent to the husband's house. The object of this is to make sure by an actual betrothal that a good match may not be lost; but if uncontrolled this fashion would soon ripen into a regular custom of child-marriage.

41. There is another suggestion which the Malayâlis for the last two or three years have been warmly discussing, and that is whether there is any real objection to postponing the Tâli-kettu until the girl is marriageable, and then permitting her real husband to invest her with the marriage-badge.*

* NOTE.—In a novel called "Minâkshi," printed in Malayalam last year, the Nayar author discusses the *pros* and *cons* of this question in a chapter which is well worth perusal. The following extract is part of a conversation between the relatives of the heroine (a school girl) in a debate as to how the Tâli-kettu should be performed upon her:—

A. "Is there any objection to letting the *Sambandham* and *Tâli-kettu* take place at the same time? Would it not be more honorable and better to get the tâli tied by the husband in the wedding booth?"

In this matter it would be supposed that the Nayars have merely to follow the example of the "Earth-gods," their Nambudri priests, whom they have taken for their pattern and guide in all things spiritual and temporal. The Nambudris, as already explained, follow an *anâchâram* which permits their women to remain virgins without loss of caste. The Nayars may well imitate them in good customs as well as in bad. Two high Nambudris examined as witnesses at Shoranur (Nos. 92 and 93) were asked whether the Nayars would incur any social penalty if the Nambudri example in this respect was followed, and both replied in the negative. If the leading Nayars would agree to convert the *Tâli-kettu* from a sham into a reality, by performing the ceremony when the girl becomes marriageable, and when a suitable husband has been found for her, a great reproach and disgrace (as the best of them admit the present mock-marriage to be) would be wiped away.

42. Opinions differ as to whether, after *Tâli-kettu* has been performed, any further formalities are necessary when the girl takes a consort.

Many respectable witnesses* tell us (an undoubted fact) that no formality, religious or secular, need attach to *Sambandham*, and that in very many cases the consent of the girl and of her guardian is all that is thought necessary. But it is also an undoubted fact that recent usage (especially in North Malabar) tends to surround the occasion of first cohabitation with a more or less elaborate ceremonial. We cannot do better than accept the description given by our colleague, Mr. Chandu Menon, of the ceremonies which he, and those who think with him, regard as constituting 'marriage' amongst the Nayars. He says:—

Sambandham is the principal Malayalam word for marriage as *Vivâham* is in Sanskrit. Whatever may be the basis of the *Sambandhams* of the *Marumakkathâyam* Nayars, there can be no doubt that the idea which the word conveys to a Malayâli is the same as the

B. "That is an impossible thing. In some big *Tarawâds* with many members it may sometimes happen that fully 25 girls have to be tied at the same time. Never in this life would it be possible to find a *Sambandhakâran* to tie the *tâli* for each, one by one. You can't buy a *Sambandhakâran* along with the bazaar things required for the wedding expenses, can you? If that were possible it might be done. What is the use of talking idly about a thing which is impossible to bring about."

A. "It might be managed, even in this life, if the determination to marry all the girls in a *Tarawâd* on the same day were given up. It would suffice to marry only the girls for whom there were *Sambandhakârans*. Let it be settled to marry the rest as *Sambandhakârans* become available. If this be done there is no difficulty and then it would be the husband who tied the *tâli*."

B. "There would be no end of difficulty and bother if it were determined to catch the *Sambandhakârans* and cause them to tie the *tâli* one at a time. If you want to celebrate a tolerably decent *Kalyânam*, not a cash less than Rs. 500 will cover the expense. Supposing there are ten girls to a *Tarawâd* that would mean an outlay of Rs. 5,000 for their marriage. If the *Tarawâd* is not a prosperous one you need not fancy that they can borrow a cash without mortgaging land on *Kânam* or usufructuary mortgage. This being so, nothing more would be wanted to ruin the *Marumakkathâyam* *Tarawâds* by making them pluck-up and sell even the very foundation stones of their dwellings."

A. "If there exists the smallest shame at needless waste of money, or if there is any regard for the family, no *Tarawâd* need be ruined by marriage expenses. It is sufficient if it recognized that the expense should be suited to the means. At a cost of about Rs. 40 the marriage could be very decently and honorably performed. No folly and stupidity can equal that of borrowing and falling into debt for the sake of incurring wasteful expense on the ceremony for no fruit but dishonour. It is because no limit is placed on expenditure that most *Tarawâds* have sunk into debt and ruin. This Malabar is not the only country in the world where girls have to be married one after the other."

The ultimate conclusion arrived at is that the *Tâli-kettu* is a shameful mockery which ought to be reformed, but that the notion that the marriage law of "highly civilized Europeans" can be at once introduced into Malabar, is an idle one. Such a reform (they agree) can only become possible when civilization and female education have in course of time made the people ripe for such a change.

*Vide Appendix IV., witnesses 75 and 115. Appendix II, Nos. 140, 156, 157, 178, 180, 187, 193, 202, 207, 212, 213, 215, 218, 226, 230, 231, 232, 235, 236, 237, 240, 248, 252, 258, 262, 266, 269, 274, 275, 277, 279, 283, 285, 286, 288, 295, 302, 304, 312, 321. The above list is not exhaustive.

word Vivâham. The generic term Sambandham, which in South Malabar, between Calicut and Nedunganad and in Ponnani, Cochin and parts of Travancore, is the only word to denote marriage, includes,

1. Guna Dôsham as used in South and North Malabar.
2. The Pudamuri, or its Sanskrit synonyme 'Vastradânam' used in North Malabar.
3. Uzhamporukka, and Vîdâram Kairuga, of North Malabar.
4. The Kidakkora Kalyânam of Palghât and parts of Nedunganad.

The Pudamuri, Vastradânam, Uzhamporukkuga, Vîdâram Kairuga, &c., are local expressions hardly understood beyond the localities in which they are used, but there would be hardly a Malayâli who would not readily understand what is meant by *Sambandham Tudunguga* (to begin Sambandham). The meaning of this phrase which means "to marry" is understood throughout Kêralam in the same way, and there can be no ambiguity or mistake about it.

It is thus found that Sambandham is the principal word denoting marriage among Marumakkathâyam Nayars. It will also be found on a close and careful examination of facts, that the principal features of this Sambandham ceremony all over the Kêralam, are in the main, the same. As there are different local names denoting marriage, so there may be found local variations in the performance of the ceremony. But the general features are more or less the same. For instance, the examination, prior to the betrothal, of the horoscopes of the bride and the bridegroom to ascertain whether their stars agree astrologically: the appointment of an auspicious day for the celebration of the ceremony: the usual hours at which the ceremony takes place: the presentation of the *Dânam* (gifts) to the Brahmans: the sumptuous banquet: the meeting of the bride and the bridegroom in the central room of the house: the sprinkling of the rice on the heads of the bride and the bridegroom,—are features which are invariably found in all well-conducted Sambandhams in all parts of Kêralam alike. But here I would beg to state that I should not be understood as saying that each and every one of the formalities above referred to, are gone through at every Sambandham. I would only say that most of them are generally gone through at all Sambandhams among respectable Nayars, and I would further say that they ought to be gone through at every Sambandham, if the parties wish to marry according to the customs of the country. I would now briefly refer to the local variations to be found in the ceremony of the Sambandham, and also the particular incidents attached to certain forms of Sambandham in South Malabar. I shall describe the Pudamuri, or Vastradânam, as celebrated in North Malabar, and then show how the other forms of Sambandham differ from it. Of all the forms of Sambandham I consider the *Pudamuri* form the most solemn and the most fashionable in North Malabar. Of course my description will be borne out by the evidence that is before us. The preliminary ceremony, in every Pudamuri, is the examination of the horoscopes of the bride and the bridegroom by an astrologer. This takes place in the house of the bride, in the presence of the relations of the bride and bridegroom. The astrologer after examination, writes down the results of his calculations on a piece of palmyra leaf, with his opinion as to the fitness or otherwise of the match, and hands it over to the bridegroom's relations. If the horoscopes agree, a day is then and there fixed for the celebration of the marriage. This date is also written down on two pieces of cadjan, one of which is handed over to the bride's Kâranavan, and the other to the bridegroom's relations. The astrologer and the bridegroom's party are then feasted in the bride's house and the former also receives presents in the shape of money or cloth, and this preliminary ceremony which is invariably performed at all Pudamuris in North Malabar, is called "Pudamuri Kurikkal," but is unknown in South Malabar.

Some three or four days prior to the date fixed for the celebration of the Pudamuri, the bridegroom visits his Kâranavans and elders in caste to obtain formal leave to marry. The bridegroom on such occasion presents his elders with betel and nut and obtains their formal sanction to the wedding. On the day appointed the bridegroom proceeds, after sunset, to the house of the bride accompanied by a number of his friends. He goes in procession and is received at the gate of the house by the bride's party and is conducted with his friends, to

seats provided in the Tekkini, or Southern Hall of the house. There the bridegroom distributes presents (*Dānam*) or money gifts to the Brahmans assembled. After this the whole party is treated to a sumptuous banquet. It is now time for the astrologer to appear and announce the auspicious hour fixed. He does it accordingly and receives his dues. The bridegroom is then taken by one of his friends to the *Padinhātta*, or principal room of the house. The bridegroom's party has, of course, brought with them a quantity of new cloths and betel leaves and nut. The cloths are placed in the western room of the house called *Padinhātta* in which all religious and other important household ceremonies are usually performed. This room will be decorated and turned into a bed-room for the occasion. There will be placed in the room a number of lighted lamps, and *Ashtamangaliam* which consists of eight articles symbolical of *mangaliam* or marriage. These are rice, paddy, the tender leaves of the cocoanut trees, an arrow, a looking-glass, a well-washed cloth, burning fire, and a small round wooden box called "Cheppu" made in a particular fashion. These will be found placed on the floor of the room aforesaid as the bridegroom enters it. The bridegroom with his groom's-man enters the room through the eastern door. The bride dressed in rich cloths and bedecked with jewels, enters the room through the western door accompanied by her aunt or some other elderly lady of her family. The bride stands facing east with the *Ashtamangaliam* and lit-up lamps in front of her. The groomsman then hands over to the bridegroom a few pieces of new cloth, and the bridegroom puts them into the hands of the bride. This being done the elderly lady who accompanied the bride, sprinkles rice over the lit-up lamps and the head and shoulders of the bride and the bridegroom, and the bridegroom immediately leaves the room, as he has to perform another duty. At the Tekkini or Southern Hall, he now presents his elders and friends with cakes, and betel leaf and nut. Betel and nut are also given to all the persons assembled at the place. After the departure of the guests the bridegroom retires to the bed-room with the bride.

This is an unvarnished account of a "Pudamuri." Next morning the *Vettillakketu* or *Salkāram* ceremony follows, and the bridegroom's female relations take the bride to the husband's house, where there is a feasting, &c., in honor of the occasion.

Uzhamporukkuga, or *Vidāram Kairāl* is a peculiar form of marriage in North Malabar. It will be seen from the description given above that the *Pudamuri* is necessarily a costly ceremony, and many people find it difficult to celebrate it in due form for want of money. Such people generally resort to the less costly ceremony of *Uzhamporukkuga* or *Vidāram Kairāl*. The features of this ceremony are to a certain extent the same as *Pudamuri*; but it is celebrated on a smaller scale. There is no cloth-giving ceremony. The feasting is confined to the relations of the married couple. The particular incident attached to this form of marriage is that the husband should visit the wife in her house, and is not permitted to take her to his house, unless and until he celebrates the regular *Pudamuri* ceremony. This rule is strictly adhered to in North Malabar, and instances in which the husband and wife joined by *Uzhamporukkuga* or *Vidāram Kairāl* ceremony, and with grown-up children being the issue of such marriage, undergoing the *Pudamuri* ceremony some 15 or 20 years after *Uzhamporukkuga*, in order to enable the husband to take the wife to his house, are known to me personally.

The *Sambandham* of South Malabar and the *Kidakkora-kalyānam* of *Palghât* have all or most of the incidents of *Pudamuri*, except the presenting of the cloths. Here money is substituted for cloths, and the other ceremonies are more or less the same. There is also *Salkāram* ceremony wanting in South Malabar as the wives are not at once taken to the husband's house after marriage.

43. Accepting the above account of the so-called marriage ceremonies, we have next to consider whether any or all of them constitute a valid marriage.

"Of all the forms of *Sambandham* (says Mr. Chandu Menon) I consider the *Pudamuri* form the most solemn and the most fashionable." It is an essential part of the *Pudamuri* ceremony that there should be a gift of cloth by the bride-

groom to the bride, and of no other form of Sambandham can it be said that any formality is of its essence. If the Pudamuri is not a valid marriage, neither are the other less formal varieties of Sambandham.

In enumerating the reasons for holding that the Pudamuri ceremony is not a marriage, we may begin with a quotation from a competent Brahman witness from North Malabar (Appendix IV., witness 25, page 17): "Nambudris consort with Nayar females by *Pudamuri*, and exactly the same ceremony is gone through whether the husband is a Nambudri or a Nayar. The Nambudiris don't look on it as marriage." In their answers to Question 21, seventy-four of the North Malabar witnesses (out of the first 134 in Appendix II.) corroborate this statement by declaring that whether the husband be a Nayar or a Brahman, the formalities of the wedding are exactly the same. Others, with more accuracy, point out that where a Brahman is the bridegroom he can't eat with his Sudra 'wife,' and therefore is unable to join in the wedding feast; and also that there is no comparison of horoscopes, but admit that there is no essential difference.

The Brahman has not the least objection to go through any formalities required by the scruples of the woman and her family, but he does not regard the connexion as a marriage, and no Court of law would so regard it. If certain formalities do not constitute a legal marriage when the bridegroom is a Brahman, how can precisely the same formalities constitute a legal marriage when the bridegroom is a Nayar?

44. We would quote next from the Memorandum of our President, certain facts and arguments adduced by him, which tend to show that the institution of marriage is foreign to Marumakkathâyam:—

"The relation of husband and wife, or of father and child, is not inherent in the conception of a Marumakkathâyam family."

"The person that begot a child on a Marumakkathâyam female was originally regarded as a casual visitor, and the sexual relation depended for its continuance on mutual consent."

"It is pretty certain from the usage obtaining in Kovilagams, or the families of ancient rulers and petty chieftains, that in former times there was no marriage in Malabar. There, the ladies cohabit with Nambutiri Brahmans without any formality, and are at liberty to change them at their pleasure, with the consent of the senior Rajahs. It may be that the aristocracy of a country adhere to an ancient usage more tenaciously than the middle and the lower classes, but it is anything but probable that the institution of marriage originally existed among the latter whilst it did not exist among the former."

"In North Malabar, especially at Kadathanâd, there is a form of marriage called *Uzhamporukka*, and its etymology suggests that one had to wait for one's turn.

Another form of marriage which is in vogue in North Malabar, and often resorted to by those who are poor, in order to avoid the expense consequent on Pudamuri, or giving cloth, which is the approved form of marriage, is called *Vidâram Kairuga*, or coming to the house. A girl married in this form is not to this day taken into the husband's house unless and until Pudamuri is performed. This indicates, again, that in former times the husband was a casual visitor at the wife's house." "Apart from negative and symbolic evidence, there is positive evidence to show that polyandry still lingers in the Ponnani and Valluvanad Taluks,

especially on the Cochin frontier of the former Taluk." Lastly, "the evidence shows that if a Nayar female consorts with a male without going through any of the forms of marriage, she is not put out of caste even in respectable families, provided that he acknowledges the intimacy and is of equal or superior caste. This sort of union, though not common, has not yet disappeared, nor is it treated as prostitution as is the case on the other coast."

45. Next let us hear the High Court than which we cannot expect a higher authority.

It will be admitted by all experts that the Aliasantâna people in South Canara have advanced further towards the paternal family than have the Marumakkathâyam people in Malabar. The formalities attending the first cohabitation are better defined, and more generally observed, and the woman is, as a rule, taken to the husband's house. It is as certain as anything can be that any ruling which holds that there is no marriage known to the Aliasantâna law must *à fortiori* apply to Marumakkathâyam also. Under the Aliasantâna system the union of man and woman (says the High Court) "is in truth not marriage, but a state of concubinage into which the woman enters of her own choice and is at liberty to change when and as often as she pleases." (Mad. H. C. Rep., Vol. IV., 203.)

It (the system) founds upon the cohabitation no right of property or inheritance. It is a casual relation which either party may terminate for any or no reason. Neither father nor mother is legal guardian of the offspring. The senior male for the time being in the mother's family, though under no personal obligation to support the offspring, is constituted their only legal guardian, both during their mother's life-time and after her death, and the father has by positive law not the smallest right to their custody. (VII Mad. H. C. Rep. 179.)

The cohabitation does not constitute such a marriage as those intended in those sections of the Penal Code which provide for the punishment of offences against the marriage right (I. L. R., Vol. VI., 379) and thus conduct which under the ordinary law would be punishable as bigamy, adultery, or enticing away a married woman, escapes with impunity.

46. Hear next the aristocracy of the District, the Rajahs who are admittedly the heads of the Nayar caste, and the Nambudris who are the priests and expounders of religion. The Zamorin Maharajah Bahadur, some of the most learned representatives of the various branches of his royal family, and divers other respectable witnesses, agree that by a divine ordinance—partly handed down by immemorial tradition, and partly recorded in sacred granthams—it is forbidden to the Nayar women to be chaste, and slokâs are quoted to prove that to the Nayar women, what is usually called promiscuous cohabitation is honorable in all things and the bed undefiled.

47. Hear next the voice of the three hundred and twenty witnesses (all of them men of weight by virtue of rank, position, or education) who have sent in answers to the interrogatories. One hundred and ninety-seven admit the undoubted fact that either party to the union may terminate it at any time from wantonness, caprice, or any other reason. If the couple, joined together by Pudamuri, are satisfied with one night of hymeneal bliss, there is no legal impediment to prevent their separating without any formality on the following morning. Ninety-one other witnesses do indeed allege some formality to be necessary,

but in general their only assertion is that the parties should not separate without the approval of their Kâranavans, or of their relatives, or of their caste people. This is a mere counsel of perfection, which it is not pretended can be in any way enforced. Twenty-one would altogether deny to the woman the right of divorce which they accord to the man, assigning as their reason that under the Hindu Law no woman can be independent. This minority would, if they could, deprive Marumakkathâyam of its one great merit, *viz.*, that in sexual matters it places the man and the woman on terms of equality, according equal freedom to both. With practical unanimity all admit (what is also an unquestionable fact) that at any moment the man may turn away the woman, and that under Marumakkathâyam law he is in no way responsible for the maintenance of the children whom he has begotten upon her.

48. Applying the test proposed in para. 29 the Commission are thus forced to the opinion that the principles of the Marumakkathâyam law do not recognize the institution of marriage. If Marumakkathâyam is to be their guide, it permits its followers to copulate *more ferarum* with no other restriction than that the man shall be of equal or higher caste than the woman. They are all, or nearly all of them, better than their Custom, and the majority (as we are told and believe) cleave to one woman for life. But continued cohabitation does not, under any law which concerns us, raise the woman to the status of wife; and the parties, however long they cohabit, acquire under their own system no rights or duties which the law can recognize.

49. We may next conveniently consider the question as to whether the cohabitation of the sexes, according to Marumakkathâyam custom in any way connects itself with the religious observances of the people.

The Nambudri Brahmans are the priests, and religious instructors, of the Nayars, and their answer to this is that Malayalam sacred writ and immemorial tradition decree that the Sudra woman was specially created for Nambudri bachelors to play with, and that any departure from this usage in the direction of chastity, must bring down upon the offenders the divine curse. The Nayars will not submit to this teaching much longer. Apart from this religious objection we do not think it can be shown that the introduction of a marriage-law would offend in any way the religious convictions of the Marumakkathâyam Hindus.

Of the witnesses examined, only one (No. 119, Appendix IV.) has ventured to assert that the formalities which optionally attend *Sambandham* make it a religious ceremony; whereas a *number of witnesses—fair representatives of the classes who oppose legislation—admit that there is no religious element in it.

How can it be contended that the formalities are of a religious nature, when any or all of them may be dispensed with, without making the alliance illicit or improper? A marriage can scarcely be religious, when the marriage relation can be at any time arbitrarily repudiated. The Nambudris, as already shown, para. 43, deny that the formalities constitute a marriage, and, as our President well says, “there is no officiating priest in attendance, there is no formula to be repeated, there is no Vedic or Puranic, or religious chant or exhortation and there is no formal benediction.” The parties do not plight their troth and do not call God to witness their union.

* Vide Appendix IV., Nos. 7, 25, 27, 34, 35.

The comparison of horoscopes to ascertain the luck of the pair can hardly be deemed a religious ceremony, when it is remembered that this formality is often observed before taking a partner in trade, or engaging the services of a Kâriasthan, or bailiff.

The distribution of money to Brahmans is one of the prescribed forms of charity which it is the custom to display on all festival occasions, and does not in itself convert a feast into a religious rite. The lighted lamp is no doubt indispensable, seeing that the festivities take place by night, but no one has been able to show us that it has any religious significance.

50. Having thus reached the conclusion that Marumakkathâyam was, and still is, destitute of the institution of marriage, we deem it necessary to describe briefly how this system, which ignores the relation of husband and wife and of father and child, actually works in every-day life. If the system works smoothly in practice, and if its followers are united and prosperous, the fact would doubtless be a strong argument for leaving well alone.

The truth must be told in plain words, even at the risk of giving pain and offence to many upon whose good opinion we set a high value; but the impeachment of a system should not be misconstrued as betokening a want of appreciation of the many virtues and good qualities of the people born under it.

51. *The Marumakkathâyam Family.*—The Tarawâd, or Marumakkathâyam family, consists in theory of all persons who can trace their descent in the female line from a single ancestress. No descendant of a male can belong to the Tarawâd. The senior male for the time being is the head and manager, and is called the Kâranavan.

Lovers of the system depict the Tarawâd as a group of males and females, bound together by the sacred tie of common descent from one great-great-great grandmother. The females have only to follow their natural instinct to be fruitful and multiply; while the males (free from all sordid care for their own progeny) labour like the honey-bee for the common good of the Tarawâd hive, and pour their earnings into the lap of the venerable Kâranavan, who in the exercise of an absolute and wise discretion, administers the income equally for the benefit of all.

Secured by the impartibility of the estate, refreshed by the acquisitions of the junior members, and under the beneficent sway of the senior male, the Tarawâd should wax great and endure throughout all generations.

52. *The Kâranavan.*—The senior male in this happy family is entitled to possession of the Tarawâd property, and is absolute in its management. The junior members have only a right to residence and maintenance in the family house. They cannot call for an account, except as incident to a prayer for the removal of the manager for misconduct, nor claim any specific share of the income, nor even require that their maintenance should be in proportion to the income. An absolute discretion in this respect is vested in the manager. (*Vide* Mayne's Hindu Law, Sec. 268.)

The Kâranavan is the legal guardian of every member of the Tarawâd. His position in this respect is defined by the High Court (Morgan, C.J., and Holloway, J.) as follows:—

“In the present case, by the principles of the law of Malabar, the mother herself while alive and her children too were under the guardianship of the head

of the family, the Kâranavan. Their position was precisely analogous to that of the members of a Roman family under *patria potestas*. The Kâranavan is as much the guardian and representative for all purposes of property, of every member within the *Tarawâd*, as the Roman father or grandfather. Moreover, the relation of husband and wife does not in Malabar disturb their condition. These children have no claim whatever upon the property of their father, but their rights are entirely in that of their Kâranavan's family. There is no doubt at all that he was during the mother's lifetime, and continues to be after her death, the legitimate guardian of the children, and that the father has by positive law not the smallest right to their custody." (VII. Madras H. C. Rep. 179.)

But it may be noted here that a Kâranavan is under no personal obligation to support any member of his *Tarawâd* by his own labour, or from his self-acquisitions. He is only responsible if the family possesses ancestral property and to the extent of that property.

In Marumakkathâyam it seems to be taken for granted that every *Tarawâd* must have an ancestral estate upon which to subsist. This is of course far from being the case.

"He (the Kâranavan) is not accountable to any member of the *Tarawâd* in respect of the income of it, nor can a suit be maintained for an account of the *Tarawâd* property in the absence of fraud on his part." "His management may not be as prudent or beneficial as that of another manager would be, but unless he acts *mala fide*, or with recklessness, or with incompetency, he cannot be removed from such management. Almost the only restraint on him in such management is that he cannot alienate the lands of the *Tarawâd* except with the consent of the senior Anandaravan, or, in certain circumstances of other of the Anandaravans." (I. L. R. II. Mad. 328.)

Where one Kâranavan has allotted *Tarawâd* lands amongst the various branches of the family for their support, his successor in office may cancel the arrangement and make a redistribution.

The High Court (Innes and Muthusami Aiyar, J.J., in S. A. 450 of 1881) held that "the numerical increase of the *Tarawâd* must from time to time necessitate a new distribution, and a Kâranavan is competent to call in property allotted in maintenance, and redistribute it, or make arrangement at his discretion for the maintenance of the members."

In S. A. 359 and 401 of 1870 the High Court (Scotland, C.J., and Holloway, J.) observed:—

"With so peculiar a condition of property as that of Malabar, it is most essential for the avoiding of complete anarchy and consequent ruin, to maintain the distinct rule as to the Kâranavan's powers."

In the matter of removing a Kâranavan for mismanagement the High Court (Morgan, C.J., and Holloway, J.) remarked:—

"In such a state of property and family relations as that of Malabar there must be "to a man in the position of Kâranavan "a constant conflict of interest with duty," but they held that the Kâranavan "should certainly not be removed from his situation except on the most cogent grounds." "The state of families and property in Malabar will always create difficulties. Their solution will not be

assisted by bringing in the anarchy and insecurity which will always follow upon any attempt to weaken the natural (*sic*) authority of the Kâranavan." (I. L. R. I. Mad. 153.)

Self-acquisitions.—The self-acquisitions of each member of a Tarawâd are at his absolute disposal during his life-time, but lapse to the Tarawâd on his death. (II. Madras H. C. Rep. 162.)

Creditors of the deceased can however follow up the property after it has so lapsed. (I. L. R. IV. Mad. 150.)

53. This brief recital of a few of the correlative rights and duties of the Kâranavan and his Tarawâd may suffice to attract attention to certain obviously strange features in the system.

How does a system work which selects the eldest male, by mere virtue of his senility, and puts him in the place of a father to rule over all the descendants in the female line of a single ancestress as if they were his children? In any large Tarawâd, if the Kâranavan reaches the ordinary span of human life, the chances are that his successor (the next senior male) has already one foot in the grave. It is a common thing at Jamabandi to find two feeble, white-headed old men, belonging to different branches, each alleging himself to be older than the other, and each contending for the Kâranavanship. The natural operation of the rule is that the Kâranavan, when he succeeds to office, is already in his dotage and has but a few years to live; and from this follows the result that most Tarawâds are afflicted by a change of Kâranavan at frequent and brief intervals. The chances are that where an old man succeeds to the office he is already physically and mentally incapable of contending with a score of men and women younger than he, and bound to him by no natural tie of affection. He becomes a puppet in the hands of one or more of them, and the Tarawâd suffers the usual consequences of puppet-rule.

As one Kâranavan follows another in rapid succession, each is placed under the strongest temptation to use his brief opportunity to provide for those he loves at the expense of those whom he does not love. When his power to raise money by lease and mortgage, and his non-liability to account for it, are considered, it is indeed wonderful that any Kâranavan should be honest. As the High Court observe "a Kâranavan's duty is in habitual conflict with his private affections and interests." (III. Madras H. C. Rep. 294.) The temptations that assail him are not of recent growth. In Appeal Suits Nos. 172 and 173 of 1858, Mr. Holloway remarked :—

"The rule of descent (Marumakkathâyam) exists, and the effort of the Court should be in accordance with the law to prevent *the gross acts of spoliation constantly carried on by heads of families*, which have reduced some of the most respectable families in Malabar to beggary." The italics are ours.

54. It is needless to dwell on the importance of home education for children. How, under such a system, can there be any wholesome home influences?

Their father is a stranger, who is not their guardian. The mother is not mistress of her house, but is only one of many junior members dependent on the Kâranavan. "All the females and junior members" (says Mr. Othena Menon) "pass their lives in constant discontent and misery." It is often difficult enough for a

father to educate half-a-dozen or so of sons; but what is the Kâranavan to do whose family may number two or three score of boys? The tendency is to educate none of them, on the plea that he cannot make invidious distinctions.

"I know hardly any instance," says Mr. Rozario (witness 46) "of a Kâranavan educating a junior member. It is almost always the father who educates," and this may be accepted as correctly laying down the rule.

55. The next point for remark is the theory that the Tarawâd is "an indissoluble unit," that its property is impartible and that all the members should live together.

Our Courts have done their best to compel the people to act up to the theory, and it is wonderful what a number of persons, when all are entitled to be fed without working, can live "huddled together" (as one of the witnesses, Mr. Kamaran Nayar, expresses it) "in a huge camp." "Not a day passes," he tells us, "without some fight or other." But disintegration is inevitable. At a certain point the mere increase of numbers renders it intolerable for the members to remain crowded together under one roof, and when this stage is reached the Tarawâd splits up into *Tâvazhis*, (branches) each headed by a female of the Tarawâd and her children. Other circumstances often favour such disintegration. Generally the Tarawâd lands are scattered in patches, often at a great distance from the family-house and from each other. For instance the estate of the Kavalapâra Nayar (which has long been under the Court of Wards) lies scattered throughout twenty amsams (parishes) of the Walluvanad and Palghât Taluks. The estates of all the Kovilagams lie scattered in the same way, and it may be laid down as a rule that no considerable Tarawâd estate lies in a compact block. The scattered lands are managed by erecting a number of kalams (or outlying granaries) where grain rents may be received and stored, and these must either be placed in charge of bailiffs, or of younger members of the Tarawâd. To secure breathing room in the Tarawâd house the junior members, male and female, move off to these kalams, and if the family is on good terms with the Kâranavan, an amicable arrangement is made whereby the various *Tâvazhis* (branches) cultivate and subsist upon certain lands set apart for each.

The distribution, once acquiesced in, creates a new condition of things to which the *Tâvazhis* accommodate themselves, and all may go on peaceably for years. But the *Tâvazhis* do not all increase at the same rate. Some branches become numerous and cannot subsist upon the lands assigned to them. Other branches dwindle and have more than they want. Then comes a change of Kâranavan, and the new man belongs perhaps to a *Tâvazhi* with many members. He sees that his branch is worse off than the rest. The law declares his right to make a redistribution, and the attempt to exercise the right at once plunges the Tarawâd into discord and litigation.

Witness 104 (Appendix IV.) is opposed to a marriage-law, and is therefore not likely to exaggerate the evils of the existing system. Speaking of his own locality he says:—"The Kâranavans and Anandaravans in all the important Tarawâds are in a state of hatred and dissension. The Kâranavan treats the joint property as if it was his own property. He will be the head of his own branch and will have no affection for the members of other branches. He will want to benefit his own wife and children."

Witness 105 :—" There is dissension in every respectable Tarawâd in my locality. When our Anandaravans grow up and form Sambandham they complain that the Kâranavan does not supply their wants. They refuse to work for the Tarawâd."

Witness 102 :—"In almost all the Tarawâds the Kâranavans and Anandaravans are fighting."

Witness 107 :—" Kâranavans misappropriate the Tarawâd property, and alienate it in favour of their wives and children. The Anandaravans misbehave, are disobedient and will not work. This state of things is common throughout all Malabar."

Witness 65 :—"In my time, strife and litigation between Kâranavans and Anandaravans were even more frequent in North than in South Malabar. As soon as a man becomes Kâranavan his thought is how he can benefit his wife and children at the expense of the Tarawâd."

A house divided against itself cannot stand, and most Tarawâds in Malabar are in this condition.

The Tâvazhis indeed admit descent from a common ancestress, but allege that they have become separated in interest. In this position the Courts (with some apparent inconsistency) incline to forsake the Kâranavan. The proper method of dealing with such cases is thus laid down by the High Court :—" In Malabar, as elsewhere, the inconvenience of this state of things (*i.e.*, living together as an indissoluble unit) has made itself felt, and families becoming very numerous, have split into various branches, have in fact become new families." "In one sense of the word people so related are still of the same Tarawâd. In the only sense with which Courts of Justice are concerned, they are not. Where there are several houses bearing the same original Tarawâd name but with an addition, and there is no evidence of the passing of a member of one house to another, there is the strongest possible ground for concluding that separation has taken place." (IV. Mad. H. C. Rep. 411.)

Kâranavans are now alive to the danger of allowing junior members to establish a *Tâvazhi* at outlying kalams (granaries), and the practice now is either to employ a Kâriastan (bailiff) or to insist upon the Anandaravan executing a formal lease.

The above is another great defect in the system, *viz.*, that it does not contemplate or provide for the time when the young birds must be crowded out of the nest.

There comes a point when the Courts will say that community of interest has ceased between branches of admittedly one family, but it is left to the uncertain opinion of the Judge to decide when this point is reached, and a fine field for litigation is thus opened up.

The so-called disruption of Tarawâds is bound to go on ; and a system which ignores and forbids the multiplication of families, so far as it is not altogether futile, is purely mischievous. A division of the land which may have suited the community a century ago when the whole population was estimated at under half a million (*vide* Imperial Gazetteer, Vol. IX., 224) will be suitable no longer when the population has multiplied to five times that number.

56. The Marumakkathâyam classes include no doubt nearly all the aristocracy of the District, but nothing can be more erroneous and unfounded than the notion that every Tarawâd has estates of indefinite dimensions capable of feeding an indefinite number of mouths. The great majority of Kâranavans—probably nine-tenths—are small tenant-farmers cultivating a few acres, on a precarious tenure, at a rack-rent, and a law which requires such a man from the produce of his farm to feed and provide for all the descendants of all his female relatives from birth to death, whether they work or not, is one of those laws which only continue to be law because they are habitually disregarded.

“If any will not work neither let him eat” is a law of Nature, which must make itself felt, sooner or later, even in the few Nayar Tarawâds which still have large estates; and the families which ignore it are doomed to poverty and extinction.

Mr. Logan, at page 138 of the Malabar Manual, concludes his remarks about the Nayars, in the following mournful and suggestive words:—“With a large increase in their numbers and with comparative poverty for the large body of them, the race is fast degenerating.”

57. The final result of the impartibility of Tarawâd property, is that it is mortgaged, re-mortgaged, and encumbered in every possible way, until not another rupee can be raised on it. Deputy Collector Mr. Chappan Menon, a very competent, experienced witness, tells us (Appendix IV., witness 66) that there are probably not fifty Tarawâds in the whole District that are not heavily involved in debt, and this is simply another way of expressing the same fact.

58. *The Marumakkathâyam Family in North Malabar.*—We witness in North Malabar a curious spectacle—the patriarchal system in conflict with, and slowly overcoming, the matriarchal—while the *corpus vile*, in which the struggle is going on, believes itself to be in perfect health, and is totally unconscious of the symptoms indicating the impending change.

In Marumakkathâyam law, no proposition can be clearer than that the Tarawâd estate is held in trust for the support of the females, and of their descendants in the female line. The theory of the system supposes that the females should live together in the Tarawâd house, and should there be visited by their consorts; and this is still the rule in South Malabar. But in North Malabar it has become the general recognized custom for the women to leave their Tarawâd house on “marriage” and to reside with their “husbands.”

In the present condition of society, it is the exception and not the rule for the “husband” to be able to set-up house and support his “wife” by his own exertions. The normal condition of a Tarawâd is to have one head, and many junior males looking to him for support, and thus in the great majority of cases the “husband” will be a junior member without either the wish or the means to earn his own living. It is strange that in this state of things the custom should have grown-up of allowing the junior males to bring their “wives” into the Tarawâd house.

But so well established is the custom that the High Court has held that the maintenance of the “wives” and children of the junior members (residing with their “husbands” in the husband’s Tarawâd) is a charge which the Kâranavan of the junior members is bound to meet. (I. L. R. VI. Madras 341.) The High Court allows that the Ruling “would seem inconsistent with the principles of the

Marumakkathâyam law," but the answers to the interrogatories and the evidence taken by the Commission show that the ruling is really and truly in complete accordance with existing usage.

In North Malabar every girl quits the Tarawâd house as soon as a mate can be found for her, while all the males,—uncles, brothers, nephews, cousins, and second cousins,—remain, and bring their "wives" to live with them. The wives and children of all the males generally share the same kitchen and cook their rice in the same pot. Thus in North Malabar the Tarawâd income is consumed by the males, their 'wives' and their descendants, while to the females, their Tarawâd becomes an ultimate place of refuge into which they and their families are unwillingly received when their husbands die or discard them. The unhappy Kâranavan is not only bound in law to maintain all the females of the Tarawâd, who may have been widowed or discarded, together with all their offspring, but must also find bed and board for all the "wives" of the males, and for all their offspring during continuance of the connexion.

The obligation to find food for all the Tarawâd mouths, including those of the wives and children of all the junior members, gives the Kâranavan, in theory, a right to veto an Anandaravan's "marriage," but the veto cannot be so used as to keep junior males in a state of celibacy, and though the Kâranavan may have some voice in the selection of the juniors' wives, he has no control over the rate at which they breed. The Kâranavan though he is the legal guardian of the junior males, is not in the same position as regards their wives and children. These latter remain in law under the guardianship of the Kâranavans of the Tarawâds to which the "wives" belong, and the husbands have not in law the smallest authority over them.

How such a family system can work at all is a mystery! We can well credit the witness who tells us "not a day passes without some fight or other." (Appendix III., No. 37.) The practice is a travesty of Marumakkathâyam, and is in fact a deformed growth—the product of a natural unconscious effort to shake off the matriarchal system, which effort has been nipped in the bud and rendered abortive (as pointed out by Mr. Mayne*) through the action of our Courts in preventing the disruption of Tarawâds by partition. Strange to state the great majority of the people thus chained to ancient custom by foreign agency, seem perfectly satisfied that their social condition admits of no improvement.

"Their cage

They make their quire, as doth the prison'd bird,
And sing their bondage freely."

59. *Are the proposed changes desired by a majority of the classes subject to the Marumakkathâyam law?*—Maine, in his "Ancient Law," tells us that "much the greatest part of mankind have never shown a particle of desire that its civil institutions should be improved." (Sixth Ed., p. 22.) "Instead of civilization expanding the law, the law has limited civilization." "The stationary condition of the human race is the rule, the progressive is the exception." "Over the larger part of the world, the perfection of law has always been considered as consisting in adherence to the ground plan, supposed to have been marked out by the original legislator" (p. 78).

All these remarks apply with full force to Malabar.

* NOTE.—Vide Appendix I., last page.

The great bulk of Nayars and Tiyaṇs are tenants of small holdings, paying rack-rents, and earning a scanty living by agriculture. They are totally uninstructed on the subject of the proposed legislation, and can form no opinion as to its desirability.

The landlord and agricultural classes, as a whole, have little education, in the English sense of the term, and have that horror of innovation, which characterises most Orientals.

We therefore do not dispute the view that the proposed legislation is not at present desired by a majority, but we also believe that the uninstructed majority will rapidly follow the lead of the enlightened classes, and that there need be no apprehension that if the law be framed it will remain a dead letter.

Many of the strongest opponents of the proposed legislation have expressed a lively dread of its speedy acceptance by a large proportion of the people.

Thus witness No. 56 (one of the great Janmis) in urging his objections to the Bill, says:—"Seven-eighths of the Anandaravans will give their earnings to their wives and children, and thus Tarawāds will be ruined if the proposed Act is passed. My opinion is that if the proposed Act is passed, a majority of Anandaravans will follow it, and the Tarawād system will be ruined. I think both educated and uneducated Anandaravans will marry under the Act." The Dewan of Cochin, in stating unofficially his objections to the Bill, says:—

"If once the Bill is passed it will become almost compulsory. Some of the English-educated Malayāli gentlemen, who hold respectable posts under Government, or who occupy other respectable positions, will register their marriages, and then non-English-educated gentlemen too will follow them, though they do not know whether the measure is good or bad. They will consider that it must be good as it is accepted by those whom they regard as their superiors in every respect. Malayāli ladies will begin to consider that marriage registration is the only proper thing to be done, and they will not accept husbands who are not willing so to register, and proclaim to the world that they are married.

Thus in the course of a few (say ten) years, almost all Malabar marriages will become registered, or, in other words, the people will become Makkathāyees." (Appendix III., paper 10.)

Mr. C. Karunagara Menon, B.A., Sub-Editor of "The Hindu," in his pamphlet against the Bill, takes the same view:—

"When the example is set by men like Mr. * * * every stray youth in the community, even though he be poor and penniless, will borrow Rs. 10, step into the Registrar's Office, and have his marriage registered."

"Though the Act in contemplation is a permissive one," says the Valia Tamburān of the Padinyārē Kovilagam, "yet many are likely to conform to the provisions of it," and he goes on to point out what he thinks to be the evils which will ensue. Our colleague, Mr. Chandu Menon, thinks that there will be no Marumakkathāyam Hindus 15 or 20 years after the Bill becomes law!

All the above opinions are based on the supposition that legislation would take the form of the Hon. Mr. Sankaran Nayar's Bill, and as we deem them well-founded, we are not prepared to concur in our President's view that the number of persons who would accept the Bill as it stands, is too small to render legislation on its lines, expedient.

Out of the 121 witnesses examined by us, only 10 are content with the existing law under which self-acquisitions lapse to the Tarawâd in case of intestacy.

Thirty-one think that such self-acquisitions should be divided between the Tarawâd and the children. Thirty-three would cut out the Tarawâd altogether. Eight would give the whole to the widow and children, and twenty-three would divide the property between these and the Tâvazhi. Two would have it go to the Tâvazhi alone. Seven would divide it between the Tarawâd, Tâvazhi and children. Seventy-nine of the 121 are in favour of marriage legislation—four would wish it to be compulsory; two would not desire legislation unless it were compulsory.

Of the 322 persons who sent in answers to interrogatories, 178 are in favour of marriage legislation, and no less than 105 would desire that the whole of a man's intestate self-acquisitions should go to his widow and children.

Of these 105, thirty-one persons were examined before the Commission, and eighteen then modified their former opinion in favour of the Tâvazhi (mother, brother and sisters), or Tarawâd, being admitted to a share. Seven adhered to their opinion, and six were not questioned on the subject.

We would draw attention here to the opinion of a disinterested and exceptionally qualified witness. (Appendix IV., witness 46.) Mr. Rozario, B.A., B.L., High Court Vakil, and for many years leader of the Tellicherry Bar, says:—

“The majority of the people of North Malabar do not desire a law to regulate their marriage. They believe they have already a legal marriage. I believe a great many or almost all the educated Marumakkathâyam Hindus would wish that their self-acquisitions should go to their wives and children. I can't say that a majority of the uneducated are in favour of this. All I have spoken to admit that the proposed change would be very small inasmuch as even now most of them settle their acquisitions on their wives and children by gift *inter-vivos*. I have spoken to 20 or 25 uneducated men who are persons of position. The majority leave no part of their acquisitions to the Tarawâd. I should say that the only cases in which a man allows a part of his acquisitions to go to anyone but his wife and children are those in which his own immediate female relatives are poor. I find a majority of the people in favour of their marriage being in some way legally recognized. I have discussed the proposed legislation with persons from all parts of North Malabar. There is a growing tendency among the educated to get the Marumakkathâyam law changed in its entirety.”

If the evidence collected by the Commission be accepted as fairly representative of the more intelligent section of the community (and we think it may be) then the great majority desire either a modification of the Succession law in favor of wife and children, or a marriage-law, or both.

60. On the question whether the proposed legislation is essential in the interests of the minority and is expedient, we heartily adopt the arguments recorded by our President:—

(1) Though the minority that desires legislation is small, it is a growing and an educated minority, and every year will add to its strength and influence.

(2) The right to contract a legal marriage is personal to every one of Her Majesty's subjects and the demand for a permissive law is but reasonable.

Sir Henry (then Mr.) Maine said in 1868:—‘It is not the policy of the Queen's Government in India to refuse the power of marriage to any of Her Majesty's subjects.’

(3) It is a demand which will be repeated year after year until it is conceded.

(4) A marriage-law is an important aid to national progress and good morals.

(5) As a permissive law it will not force a legal marriage on those who are unwilling to contract it.

61. With the advance of education Marumakkathâyam is becoming hopelessly unworkable. It offends against every principle of political economy, and of healthy family life. It is based on the doctrine that there is no merit in female virtue, and no sin in unchastity, and of this doctrine the very defenders of the system are heartily ashamed. By freeing a man from the obligation of maintaining his wife and offspring, it sanctions the reckless propagation of the species,—destroys all motive for prudence and forethought,—and forces up the population to the point where it must be kept down by actual want of the means of subsistence.

It “huddles together” as a family a number of distant relatives not necessarily drawn to each other by any bond of natural affection. It makes home-life (in the best sense of the word) impossible; for the father is a casual visitor, and the mother and children are but units in a heterogeneous flock, dependent on a practically irresponsible guardian who, from the mere accident of his being the eldest of the flock, is expected to be able to regard every member with an impartial love, and to prefer their interests to those of the wife of his bosom and the children of his loins.

While attempting to maintain the impartibility of family property, it has been unable to prevent such property from being encumbered in every possible way, and the effort to get rid of the encumbrances demoralizes the people to such an extent that Malabar has become notorious for forgery, perjury and reckless litigation.

The rule which vests the management of Tarawâd property in the eldest male, raises a man to power when he is in his dotage,—cuts short his reign,—results in frequent change of managers,—saddles each with obligations that he cannot possibly discharge,—creates a constant conflict between duty and interest, and by way of climax to the many temptations which invite him to provide for his wife and children by malversation and breach of trust, offers him the assurance that he cannot be called to account. Finally, by declaring the right of every member to receive maintenance from the Tarawâd, from the womb to the grave, junior members are encouraged to pass useless lives in sloth and idleness without effort to better their condition.

Mill somewhere remarks that the laws of most countries are far worse than the people who live under them, and happily it is beyond dispute that the Marumakkathâyam Hindus in practice follow a higher and better way of life than that which is supposed to regulate their domestic rights and duties.

So strongly has the natural feeling in favour of wife and children become developed, that in North Malabar one stock objection to a marriage-law was that the people did not want what they had already got. According to the North Malabar witnesses the rule is that the union of a man and woman lasts for life. The wife lives with the husband. Divorces are almost unheard of, or are extremely rare. Respectable people set their faces against polygamy. The father is *de facto* the guardian of his wife and children, and educates the latter. In the absence of

testamentary power, men, where they have the means, invariably make provision for their wives and children by gifts *inter vivos*; and if they were to die before having made such provision, their Tarawâds would be forced by public opinion to make the widow and orphans an adequate allowance. Thus according to all the evidence given before us, a marriage-law in North Malabar and throughout the greater part of South Malabar, would merely legalize what is already the prevailing custom.

This leaning towards a married life, with its attendant obligation to rear and educate the children, is growing from day to day. Marriage is already claimed to be a social institution, and the gradual advance of the community towards patriarchal family-life has already gone far to make the Tarawâd system unworkable in practice, and must (law or no law) eventually accomplish its overthrow.

62. We find a further argument in favour of legislation in the fact that it will discourage, and probably prevent, the growth of polygamy.

Taking Malabar as a whole, polygamy is now so rare that all the Commissioners are agreed that it presents no serious difficulty in the way of legislation, and need not be recognized in any marriage-law that may now be passed.

But the average Malayâli is not at present in favour of a monogamous marriage-law. He has indeed a lively and sincere desire that his wife (or wives) should be chaste and faithful, and should be bound to him as long as he wishes; but for himself? He is a Hindu, and would be under the Hindu law. That law, as now administered, permits polygamy, and he would therefore defend his privilege of having as many wives as he pleases.

This sentiment in favour of polygamy is visibly developing along with the social forms of 'marriage,' and unless legislation now affords a guide and support to that section of public opinion which condemns polygamy, it may hereafter become extremely difficult to recognize marriage as an institution, either judicially or by legislation, without recognizing polygamy also.

63. The last argument to which we need allude is the desirability of removing from injured 'husbands' the temptation to take the law into their own hands. "Nowhere," says Mr. Logan, "is neglect of the marriage tie more savagely avenged" than in Malabar, and this opinion has been re-echoed by writers of all opinions, with approval. According to our colleague, Mr. Chandu Menon, the Nayar 'husband' had of old the right to slay the seducer of his 'wife' on the spot, with impunity; and he has still an excuse for taking private vengeance on the wrong-doer, because the law now grants him no redress.

In the words of our President, "the proposed Act will on the one hand elevate and ennoble the precarious social marriage into a legal institution, whilst the strong arm of public law will on the other protect the domestic circle against the incursion of irregular passions and thereby remove one cause of acute suffering in that circle, and a strong temptation to the commission of crime."

To the question "Is legislation expedient?" we would answer by an emphatic "yes."

64. We will refer here to the question, *How would the legislation affect the people governed by the Aliyasantâna law?* The Aliyasantâna castes in South Canara do not intermarry with Nayars or Tiyanas, and it is apparent that the proposed law, if confined in its operation to the Marumakkathâyam Hindus of Malabar, can have no effect, either good or bad, upon the Aliyasantâna people.

Legislation for Malabar may, and we believe will, lead to a strong agitation for the extension of the law to South Canara. The Memorandum of our colleague, Mr. Mundappa Bangêra, and the letters of Mr. Brodie, the present Collector of South Canara, and of Mr. Ramaya Punja, District Munsiff (the two last papers in Appendix III.) are full of interesting information, and deserve attentive perusal. Mr. Brodie, who knows both Districts, thinks that marriage legislation is more desired in South Canara than in Malabar, and our South Canara informants show that there is a large section of the people, who desire the complete abrogation of the Aliasantâna system.

An effort to shake it off was contemplated in 1869, under the circumstances described in the papers of the above-named gentlemen, and we cannot forbear to quote, from the Memorial then prepared for submission to Government, the following description of the evils arising from the system. It shows that the indictment brought against the Aliasantâna system and against Marumakkathâyam are one and the same.

“This system of inheritance,” say the Memorialists, “is opposed to Nature; for Nature has implanted in the heart of man an affection for his progeny, and a desire to bestow on them all that he possesses, and to see them happily settled in life. But the Aliasantânam Law demands that a man shall love his nephews more than his own children, and thereby compels him to run counter to human nature. No positive law, however stringent it may be, ever triumphs against Nature, and the result therefore is that while the estates of Aliasantânam families are made over to the management of a single individual, he on his part is prompted by his natural inclinations to betray the trust reposed in him, in the interest of his nephews, which it was the object of the Law-giver to protect,—and to press into his service perjury, forgery, and other utterly demoralizing expedients to carry out his wishes the more effectually.

The Law of Aliasantânam, or nepotism, therefore has, ever since its introduction, been breeding nothing but mischief. And all Courts of Justice in the District, and almost everyone conversant with Canara, are fully aware how the Ejamân, or Kâranavan, of a family governed by the Law of Aliasantânam fraudulently contrives to bestow on his wife and children what fortune he can, at the expense of the property which by Law he is bound to keep and to bestow on his sister's son. Such Ejamâns are, however, in one sense, not to blame for they only yield to Nature which the Law with little policy directs them to disown. And we believe much of the demoralizing litigation that disgraces this District, can be traced to this revolting system.

This system of inheritance has proved ruinous to great and wealthy families. The Ejamân, or the headman of a family, in which the son succeeds his father, has it generally at heart to improve and increase the property of his family, for he is sure to bestow it on his children, towards whom he has a natural affection. And even if such a headman should happen to encumber his estate with debt, his children think it their interest to redeem it. The same however is not the case with the Ejamân of a family governed by the Law of Aliasantânam. He would defraud his nephews,—at present rightful heirs of all the property, real or personal,—to provide his own wife and children with a suitable fortune; while his children also, who would otherwise have improved their father's property, join their father in destroying it; for they know they must make hay while the sun shines, and that when the property passes away from their father, they would lose all means of profiting by it.

His successor also does the same in his turn, for it is not natural that he should act otherwise. It is thus that great and wealthy families, sooner or later but surely, collapse and gradually dwindle into nothing.

The present state of the Aliasantânam people, compared with what it was several centuries back, shows that nothing but evil and ruin have come out of the change inaugu-

rated by Bhutâlapândya, and that the people are gradually going downwards in the scale of social advancement. Everyone conversant with the habits of the Aliyasantânam people is aware what ruin this anomalous system of law has entailed upon them." (*Vide* Appendix III., last paper.)

It only remains for us to express our concurrence in the view of the President that any form of marriage legislation which may be thought fit for Malabar, may be expediently and without difficulty extended to South Canara.

65. We now come to the question what form legislation should take. On the supposition that legislation is expedient, two alternatives suggest themselves:—

- One proposal (favoured by our President) is to frame a marriage-law such as the whole body of Marumakkathâyam people may at once be able to welcome and adopt, and thus to engraft the institution of marriage upon Marumakkathâyam in such a form that the two may flourish together. Such a law amongst other things must prohibit marriages offending against existing rules of caste, must provide a ready means of divorce without resort to Court, and must recognize the Marumakkathâyam Law of Succession as meriting countenance and perpetuation.

The other alternative is to recommend a marriage-law,—such as we are sure that an English Government can and will grant,—not widely diverging in principle from those (denominational and undenominational) already on the Statute Book, all of which are based on the view that marriage is the union of one man with one woman for life, and that the wife cannot be divorced except for adultery.

The Hon. Mr. Sankaran Nair and the English Commissioner support the latter alternative, urging *first* their belief that in the present state of English public opinion, a proposal to recognize caste as an obstacle to marriage, and to permit free divorce, is not within the field of practical politics, and *second* that the Bill, in the shape in which the Hon. Mr. Sankaran Nair desired to introduce it, may be so modified as to be at once acceptable to the educated Malayâli, and in harmony with the principles which an English Government is bound to uphold.

The Commissioners (Messrs. Sankaran Nair and Winterbotham dissenting) would prefer to see the President's scheme tried, but the majority who have signed this report would humbly advise that if the scheme advocated by the President be not approved, the alternative Bill be introduced with a view to its being shaped into law.

66. We will now proceed to discuss the objections which have been raised to Mr. Sankaran Nair's Bill, and the modifications and improvements which we would recommend in deference to those objections.

I. 67. The provisions of the Bill prescribing a statutory form of marriage have been strongly objected to, on the ground that it is not in accordance with Nayar views of modesty that the bride should appear before a Marriage Registrar, who may be a man of another caste and creed.

In favour of the bride's appearance before the Registrar it must be urged that it affords a real protection to the woman, who, if she has any strength of character, cannot (with such a provision) be forced into a marriage against her will; and it seems important thus to cultivate, where it does not already exist, a sentiment amongst the males that the wishes of the females require consideration.

Such a sentiment is thoroughly in accordance with Marumakkathâyam ideas, however superfluous it may be under the ordinary Hindu Law.

However, as a concession to the strong prejudice that undoubtedly exists against the bride appearing before the Registrar in person, we concur in the President's scheme (sketched in para. 16. I. and VI. of his Memorandum) if, as we understand it, it allows the bride and bridegroom to celebrate their marriage in any form, the test of its legality being the subsequent registration,—so that the non-observance of any particular ceremonial shall not be urged as a ground for impeaching the validity of the union.

Under this scheme, at the time of marriage a declaration in writing in a prescribed form will be signed by the bride and bridegroom, by their legal guardians (if any) and by not less than two witnesses, and will be thereafter registered in accordance with the provisions of the Indian Registration Act, the bride being exempt from liability to appear in the Registration Office.

We would only add that we do not in the least regard the acceptance of this procedure as a *sine quâ non*.

II. 68. The Bill does not prohibit marriages between persons of different castes, who are not now allowed by caste-rules to intermarry, and as to the expediency and effect of this non-prohibition there is a direct conflict of opinion among the Commissioners.

Our President is of opinion that "the marriage to be legalized must be between persons, who are permitted to cohabit with each other by the custom obtaining for the time being in the caste to which they belong." He says, "In dealing with a customary marriage in a society which recognizes caste as a quasi-religious institution, I see no alternative but that of recognizing such customs as having a legal origin, although I would not fossilize them, but help on social evolution by inserting the words 'for the time being,' and thereby recognizing any change which may take place from time to time owing to the spread of education."

Here, with due respect, we must express our doubt as to whether the phrase "for the time being" would have the desired effect of preventing fossilization.

If, as our President says, "Society should be left free to alter these customary restrictions from time to time with reference to the requirements of social progress," we do not see how that result can be obtained if a provision upholding customary restrictions be enacted, for any alteration of the usage would be at once impeached in a Court of Law.

When once an authoritative Ruling has declared what the existing custom is, we apprehend that any attempt to depart from the custom so declared must prove abortive, if (as is sure to be the case) it is challenged by a civil suit.

69. Mr. Chandu Menon, also, thinks that in not recognizing caste-restrictions on marriage "the Bill violates the Hindu religious and social law in a most vital point." He says, "If an Anandaravan brings a Pariah wife (into the Tarawâd house) the consequences seem to me appalling. The whole of the members of the Tarawâd if they wish to keep up their caste and social status, will have to leave the Tarawâd house and live elsewhere."

The illustration does not seem to us well-chosen; for an Anandaravan cannot bring his wife into the Tarawâd house without the consent of his Kâranavan.

Letting that pass, we may remark that precisely the same objections as those raised by Mr. Chandu Menon were urged by the Hon. V. Ramiengar, C.S.I., in 1872, when the undenominational Marriage Act was before the Council. (*Fort St. George Gazette Supplement*, May 21st, 1872, page 59.)

He says that "this (provision that no law or custom, other than one relating to consanguinity or affinity, shall prevent marriage) will be regarded as an invitation to a Brahman to marry a Pariah girl; to a Mudali, Chetti or Pariah to seek the hand of a Brahman girl."

As a matter of fact there has not been one single instance of such a mis-alliance, nor is it likely that the same provision in the proposed Marumakkathâyam Marriage Act will have any greater effect.

Marriages in defiance of caste do not occur and are not likely to occur, but if and when they do, we believe it to be useless to ask the Legislature to declare them void.

Government has hitherto refused to regard distinctions of caste as an impediment to marriage, and we suppose that the same arguments that have before prevailed are likely to prevail again.

70. We would not however under-estimate the difficulty. It is a fact that in numerous cases the parties to a marriage contracted in defiance of caste restrictions, could not enter their Tarawâd house without (in Native opinion) polluting the whole family and rendering every member liable to boycotting and excommunication.

It is just and necessary to protect the Tarawâd from such consequences, and we would therefore provide that if the difference in caste between the parties to a marriage be such that social usage condemns them to excommunication, the party so condemned shall lose his or her right of entry into, or residence in, the Tarawâd house, and that the man should lose his right of succession to the office of Kâranavan.

In making this suggestion we have not lost sight of Act XXI. of 1850, but we believe that the proposed provision might be passed into law without conflicting with the principle of that Act.

III. 71. Following the undenominational Marriage Act the Bill proposes to disregard restrictions of consanguinity unless a relation between the parties can be traced within the fifth degree.

This is denounced as a provision that sanctions marriages viewed by the people as incestuous.

It must be replied that the wisdom of the provision has been already discussed and approved by Government. So long as Native public opinion rules that a man and woman descended from the same female ancestor should not intermarry, no such marriages will wilfully occur. But it must be borne in mind that as a matter of fact the Nayars and Tiyans do not maintain ancestral trees, and Mr. Winterbotham believes as the result of his Jamabandi experience, that there are very few Marumakkathâyam families, who can ascertain the pedigree of themselves and their relatives for more than three generations.

Several witnesses have alluded to the undoubted fact that *pula* (death pollution) falls into disuse when the relationship is distant, and in a few generations the original ancestress becomes wholly lost sight of.

A majority of four of the Commissioners would wish to see all customary restrictions of consanguinity upheld, while Messrs. Winterbotham and Sankaran Nair opine that as the restrictions are not founded on reason, it may be properly left to social opinion to maintain or abrogate them. When there is so much doubt about pedigree, it would they think be highly inexpedient to put it in the power of everyone to challenge the validity of a marriage on the ground that the bride and bridegroom were descended from the same female ancestor.

IV. 72. The next objection against the Bill is as regards its provisions relating to divorce. Here, no doubt, lies the chief difficulty in the way of meeting the wishes of the many intelligent Nayars and Tiyans who are agitating for a marriage-law.

Most of them adopt the arguments which have led some great modern thinkers to advocate divorce by mutual consent.

If marriage be a mere civil contract, why should not that contract be dissolved and a fresh one be entered into at the will of the parties? Why (they argue) should the iron rivets of the law bind together a man and woman who have learnt to detest each other?

Our President thinks the argument unanswerable, and he accordingly sketches two schemes of divorce.

The one, which he would prefer, proposes that either husband or wife, desiring to repudiate the other, should apply to the District Munsiff to serve on the opposite party a notice declaring his or her intention to terminate the connexion. The application to the Court to serve the notice should have the consent of the party's Kâranavan endorsed upon it, except in cases where the applicant is a husband living apart from his Tarawâd and possessed of separate means of support.

On the expiry of two years from the date of service of this notice the marriage should become dissolved. The interval is intended to afford ample opportunity for reconciliation.

73. As an alternative scheme (if one be deemed indispensable) the President would formulate the legal grounds of divorce. He would declare them to be adultery, cruelty, desertion for two years, change of religion, impotence, sexual incapacity, permanent and infectious disease, unsoundness of mind, transportation for life, absence for seven years without any information as to whether the party absent is alive or dead, and "any cause which renders the mutual discharge of matrimonial duties incompatible with due regard to personal safety."

Suits for nullity of marriage would be filed in the District Munsiff's Court, and it would be competent to the District Munsiff to refer issues of fact in matrimonial suits to a caste Panchâyet, to be constituted on the application of either party to the suit, or by the Court itself on its own motion. The verdict of the Panchâyet would be final, subject to the provisions of the Civil Code relative to trials before Assessors. If either party repudiates the marital relation without just cause, the guilty person shall forfeit one-fourth of his or her self-acquired property, if any, to the other. If there are children, the ownership of such property shall vest in them, the usufruct alone vesting in the innocent wife or husband during her or his life.

74. Regarding these schemes we think it sufficient to say that if Government thinks that either of them may be taken into consideration as a basis of legislation, we will not say a word against it. What we would most earnestly dispute is the opinion that legislation is inexpedient unless one or other of these schemes be adopted. If Government is unable to give its sanction to a law drawn on the lines sketched by the President, the educated Malayâli will still beg for the legalization of marriage, with whatever restrictions on divorce the Government may deem indispensable in the interests of the State and of morality.

We are aware that the State must specially guard the interests of those who have no voice in legislation, and who are unable to protect themselves,—that is, the helpless women and children who outnumber the adult males by more than three to one. “Divorce laws” (says a modern writer) “should be the thorny burrs protecting the child, and preserving a home and training for it.” We recognize that to talk of mutual consent is a mockery when the parties are not equally matched, and when it is in the power of the stronger to extort from the weaker vessel a reluctant consent by systematic worry, tyranny and ill-usage—we see that if divorce is to depend on mutual consent, a man or woman, bent on divorce, is placed under the temptation of doing all in his or her power to render the union intolerable to the other party, and that all hope of an amicable arrangement is at an end.

If Government, therefore, moved by these and other arguments, refuses materially to relax the law of divorce as contained in the various Marriage Acts now on the Statute Book, we still assert that a minority of educated Malayâlis are ready to accept the high standard of morality which such a law imposes: that the educated few are the leaven which will leaven the whole lump, and that their good example will in two or three generations, or perhaps sooner, lead the rest to adopt the same standard—a standard which we know can be reached and lived up to, as exemplified by the large body of Assyrian Christians on the West Coast, amongst whom there is no divorce and a laudable rarity of scandal.

V. 75. Amongst the civil rights which the Bill proposes to attach to marriage, that which has been most keenly opposed is the right of the children to succeed in case of intestacy, to the self-acquired property of their father and mother.

This change in the Law of Succession is denounced,—

First, as introducing a double system of inheritance, likely to breed strife and litigation, and

Second, as an indirect attempt to destroy the Tarawâd system by depriving the Tarawâds of the self-acquisitions of junior members.

76. As regards the objections to what Mr. Justice Holloway styled a “piebald” system of inheritance, they are discussed by the High Court in the case reported in I. L. R., Madras, VIII., page 239.

A remark made by a very able and experienced observer, reported in that case, deserves notice in passing. Mr. DeRozario, the Sub-Judge, says:—
“It cannot be concealed that there is a wide feeling of discontent with the Marumakkathâyam system among the classes which are governed by it, and by none is

the hardship of the rule more felt than by Tiyaṇs, who having adopted a system of marriage and acquired with it, as the natural consequence, a love of their offspring, are debarred by this system from transmitting to them their acquisitions which descend to some remote relation who is not unfrequently a third or fourth cousin of the acquirer." The High Court admit that the double system of descent is an incongruity, but point out that similar incongruities are not unknown to the law elsewhere. They point out that in England "the eldest son may succeed to one estate in virtue of the general law of primogeniture, and the youngest to another in virtue of the custom of Borough-English, and all the sons in equal shares to a third in virtue of the custom of Gavel-kind." Finally they rule that where a Makkathāyam man and a Marumakkathāyam woman intermarry, the issue are *prima facie* entitled to their father's property in accordance with Makkathāyam and to their mother's property in accordance with Marumakkathāyam. This piebald system is already in full force amongst the Mappillas and Tiyaṇs of North Malabar, and the incongruity it involves does not occasion any insurmountable difficulty.

The only strife and litigation to which the double system of inheritance can give rise will be due to the difficulty of distinguishing self-acquired from ancestral property; and this same difficulty will equally arise in every case where property is devised by Will.

To be consistent, the objectors should oppose the grant of testamentary power, whereas they all (with hardly an exception) urge that the power to devise by Will is one of their most crying wants.

77. The arguments urged against any change in the law of Succession are,—

- (a) That a great majority are content with existing usage, and
- (b) That this usage rests on the divine ordinance of Sri Parasu Rama, who directed that the nephew should perform the funeral ceremonies of his maternal uncle, and succeed to his property.

Now, in the first place, if the great majority are content with existing usage under which self-acquisitions lapse to the Tarawâd, how is it that the power to devise by Will is so eagerly and unanimously demanded? What does this keen desire for testamentary power betoken, except dissatisfaction with the existing law of intestate succession?

Under existing usage the separate property of a mother lapses on her death to her Tarawâd, and does not go to her children. Our knowledge of the District, and the evidence of the witnesses entitle us to say confidently that there is a general feeling that a woman's separate property should go to her children.

It is only as regards the self-acquisitions of the father that there is serious difference of opinion, and even as to those the great majority of our witnesses would allow no part to go to the Tarawâd, and thereby evince their discontent with the existing law.

Is it to be wondered at that many, wavering between the customary claims of the Tarawâd and the moral obligation to provide for wife and children, should suggest the compromise of giving a share to each?

We cannot accept the proposed compromise as satisfactory. In cases where the self-acquisitions were so large as to form a more than adequate provision

for the widow and children, the compromise might be unobjectionable; but what is to be said for it in those far more numerous cases in which the amount to be divided is insufficient to support the deceased's widow and children?

In most cases the self-acquisitions will take the form of a hut and paramba (garden) in which the deceased lived with his wife and family. The proposal to give half to them and half to the Tarawâd must necessitate a difficult partition, which will probably not be effected without litigation, and often lead to the expulsion of the widow and orphans from their home.

We appeal to the following reasons in support of our view that the whole of the self-acquisitions should go to the survivor and children:—

1. If marriage is to be legalised, the obligation of the husband to provide for his wife and children should be recognised as paramount, and the law should be in consonance with reason and natural justice.

2. In most cases the self-acquired property will be but a pittance for the wife and children, of which no part should be taken from them.

3. The property will generally be in a shape which renders partition difficult, and the proposed co-sharers being opposed in interest, would always be driven to a ruinous division.

4. In those numerous cases where the husband lives apart from the Tarawâd in a house of his own, and where in fact the family is composed of the father, mother and their children, it is unjust to constitute an outsider to the family circle as a co-heir, and thus to disturb the wife and children in the possession of the home and property which they have been enjoying in the life-time of the deceased.

5. The power of devise by Will will give every man the power to dispose of his property according to what he knows to be the necessities of his individual family, and there need therefore be no change in the Law of Succession unless he so chooses.

78. Our President, for the reasons recorded by him in para. 24 of his Memorandum, considers that only half the self-acquisitions should go to the wife and children of the deceased as an allotment by way of provision for maintenance, but subject to the proviso that due regard shall be had to what they may have received from him by gift during his life.

M.R.Ry. Rama Varma Tamburân would recognize the right of succession of the survivor and children, but would give half of the self-acquisitions to the Tarawâd in consideration of what he regards as the obligation of the nephews to perform the funeral ceremonies.

79. We must now notice what we may term the religious objection to a change in the devolution of self-acquisitions.

It is urged that according to Marumakkathâyam the nephew is bound to offer the funeral oblation to his maternal uncle: that he will refuse to do so unless he inherits the latter's self-acquired property; and that therefore (as Mr. C. Karunagara Menon puts it at pages 10 and 11 of his Pamphlet) the soul of the uncle cannot, according to the Hindu religious belief, be saved from hell.

We would answer this objection by a quotation from the paper of the retired Sub-Judge Mr. K. R. Krishna Menon (Appendix III, page 227). He says :—

“In this part of the country the capacity to confer religious benefits, is not the ground for regulating succession. Even if this capacity be considered as the paramount reason for regulating succession, the son should stand foremost among the persons who can present funeral cakes with any spiritual efficacy. Nayars are essentially Hindus in religion, and Hindu Sastras must be their authority for seeking spiritual benefits by performance of *post obit* ceremonies. Whomsoever the Hindu Sastras name to be the fittest person for the performance of such ceremonies for other Hindus, he must equally be the fittest person for Nayars also. That this person is the *son*, no Hindu can deny; and in fact he now performs such ceremonies and gets nothing from his father in return. It is true that there are some texts in Manu, Yâtnyavalkya and others to the effect that a Sudra, who does not know his father, may present oblations to his maternal uncle. If these texts are of any authority, they must be equally binding upon Sudras all over India. They are found among the texts which recognise twelve sorts of sons, and recommend a Brahman to make over his wedded wife to another to beget a son (Kshêtrajâ).

“They are now obsolete, and binding upon none. The Kêrala Mahâtmyam, which is set up as a special authority for Malabar, also treats the father as the highest object of reverence and recommends the performance of the uncle's funeral ceremonies as one would do for his own father, ‘Mâthulânânja samskâram pitrunuddhisya jâthayah,’ and the promiscuous intercourse recommended in the previous chapter and the consequential inability of one to know his own father is the sole ground assigned for the rule. It will thus be seen that there is no force in the argument which some set up that the key of spiritual salvation amongst the Sudras is with the nephew and that the legislature cannot order the transfer of inheritance from the nephew to the son without transferring such key also to the former. In fact, the key was never with the nephew if the Hindu religious works are to be believed. The 61st and 62nd rules of Anâchâram are not pretended to enact any new law. They are a mere codification of what had been already enacted by Parasu Rama, because Marumakkathâyam had existed before Sankarâchâriar promulgated these rules of Anâchâram, and the Kêrala Mahâtmyam is thus the sole basis of the law, and we have seen that there is not much in it in support of the argument. Under the marriage system now proposed to be introduced, a Nayar would, as any other Hindu, be certain of his father, and therefore there is no harm in changing the line of succession from the nephew to the son, as the sole reason given for the existing system will then disappear.

“If the nephew still considers that he is under a moral obligation to perform his uncle's funeral rites and does perform them, he will only be doing what the son has hitherto been doing without any remuneration.”

Whenever a junior member of a Tarawâd dies leaving self-acquisitions, it is his juniors who must perform the funeral oblations, but the property goes to the Kâranavan.

It may be urged that such juniors have a joint interest in the property, but if the next in age below the deceased happen to be a Dâyadi or attâladakkâkâran, *i.e.*, a member of another branch divided in interest, he is nevertheless entitled, and bound, to perform the funeral rites, though his chance of succeeding to the property is extremely remote.

Thus Mr. C. Karunagara Menon, B.A., who thinks that the nephew holds “the key of spiritual salvation,” himself tells us that “all those who are descended from a common female ancestor, though belonging to different Tarawâds without right to inherit, are entitled to perform religious oblations to one another, in consideration of a contingent right to inheritance which may arise on a family

becoming *extinct." Under the proposed law the Tarawâd will still have this contingent right of inheritance. Its claim to succeed is not taken away, but merely postponed to that of the children.

But for the fact that the opponents of the proposed law are not to be convinced even by a High Court Ruling, the question would seem to be really concluded by authority, for in I.L.R., 14 Mad., 299, Muthusami Aiyar and Best, JJ., hold that the "Right of succession under the Aliyasantâna Law is no way dependent on capacity to offer funeral oblations." Even in other parts of India, perhaps with the exception of Bengal, the right to perform the funeral ceremony does not involve a mutuality of right of succession. (I.L.R., 8 Mad., 125.)

• As the law now stands funeral oblations are duly observed though the deceased may have left no self-acquired property, or though he may have alienated the whole of it by gift *inter vivos*,—and it is also universally desired that the power should be conferred of disposing of self-acquisitions by Will.

Is it not clear from these facts that the duty of performing funeral ceremonies is recognised to depend on relationship and not on the right of succession?

80. On the question of guardianship there is considerable diversity of opinion.

Our President thinks that the father should be declared guardian "when he is permanently living together with his wife and children," and that where the wife and children live in the wife's Tarawâd house, their guardianship should remain with their Kâranavan as at present, but that the father should have the right to be consulted regarding the education and marriage of his children, and to apply to the Court in the event of a disagreement between him and the Kâranavan, for such directions as are most conducive to the children's interests.

M.R.Ry. Râma Varma Tamburân Avargal concurs in this view; but the three other Commissioners who have signed this Report think that it would be extremely difficult to embody such provisions in an Act, and that simplicity—the usage of all nations who have the institution of marriage—and the tendency of the Marumakkathâyam followers to adopt that usage, are in favour of the guardianship being vested in the father.

81. We do not think it necessary to lengthen this Report by discussing in detail the many minor points in which we believe the Bill to be capable of amendment.

We have noticed all the main objections that have been brought against it, and discussion on the remaining details may, we think, be properly reserved until permission to introduce the Bill is granted. None of these details can be regarded as of vital importance.

82. As to the effect of the proposed legislation upon the neighbouring States of Travancore and Cochin, we shall content ourselves with saying that we do not see how any permissive marriage-law which may be in force in Malabar can work to their prejudice.

There seems to us to be no good ground on which the propinquity of Travancore and Cochin can be urged as an objection to the proposed legislation.

83. We have shown in the course of this Report the various points on which there is an unfortunate difference of opinion between ourselves and our President. Neither being able to subscribe to the other's views, our President has recorded a separate Memorandum which accompanies this Report as Enclosure A.

M.R.Ry. Râma Varma Tamburân has also expressed his views in the shape of a Memorandum (Enclosure B). While strongly advocating a permissive marriage-law, he would wish it to uphold customary restrictions as to caste, consanguinity and affinity. He would desire some means of effecting a divorce without washing dirty linen in public, and he would give a half of a deceased person's intestate self-acquisitions to the Tarawâd.

With these exceptions, he concurs in the Report, and has therefore affixed his signature thereto.

M.R.Ry. Chandu Menon defends existing usage, and thinks that the Marumakkathâyam people have already "a perfectly good system of marriage." His Memorandum forms Enclosure C.

M.R.Ry. Mundappa Bangêra, B.A., B.L., has written a description of Aliya-santâna "marriage" customs, which forms Enclosure D.

The President desires that attention should be drawn to the Diary of the Commissioners, in which their Resolutions from day to day were recorded; and the necessary extracts from it have accordingly been printed and form Appendix VI.

We would remark that we one and all of us reserved our right to modify our opinions to any extent to which further deliberation might lead us.

An attempt was made to embody the President's scheme in the form of a draft bill (*vide* Diary for June 23rd, 25th, 26th and 27th), but this was eventually given up, and the rough drafts of the Sections alluded to in the Diary have not therefore been placed on record.

84. In conclusion, we would remark that there is one point on which all the Commissioners, and practically all the Marumakkathâyam educated people, are agreed, and that is as to the desirability of conferring upon the Marumakkathâyam classes the power to dispose of self-acquired property by Will.

If this be granted, all possible precautions should be taken against perjury and forgery. No oral or informal death-bed Wills should be recognized, and probably the best way of conferring the power will be by extending the Hindu Wills Act to Malabar.

(Signed) RAMA VARMA.

(Signed) M. MUNDAPPA BANGERA.

(Signed) C. SANKARAN NAIR.

(Signed) H. M. WINTERBOTHAM.

December 1st, 1891.

MEMORANDUM.

THE Bill which the Honourable Mr. Sankara Nair proposes to introduce into the Legislative Council at Madras is of great importance to Nayars, Tiyars and other classes in Malabar who are governed by the Marumakkattayam system of inheritance. It purports to regulate the most important domestic event of about seven hundred thousands of persons and to systematise and control family notions which have influenced domestic and social life for upwards of 2000 years. As embodying a permissive marriage law regulating the relation of the sexes, in a District where a type of polyandry had prevailed until lately, it is not devoid of general interest. The questions which it raises for consideration are so grave that they cannot be too carefully studied and investigated, and the order in which they may best be discussed is the one indicated by the Government of India in their Proceedings dated Calcutta, the 22nd December 1890, No. 1863.

2. A description of the Marumakkattayam family will not I think be out of place here. In its simplest form, a Taravad or Marumakkattayam family consists of a mother and her children living together with the maternal uncle as their Karanavan. In its complex form, it consists of several mothers and their children or their descendants in the female line, all tracing their descent from a common female ancestor and living together as a joint family in subjection to the power and under the guidance and control of the senior male for the time being as its head or representative. The link of relationship is descent from a common female ancestor and the bond of family union is subjection to a common Karanavan. The notion of Taravad property is that the entire family is its owner, that it is impartible except by common consent and that each individual member is entitled to be maintained in his or her Taravad home and to the fruits of joint beneficial enjoyment. The joint family is called a Taravad and each of the mothers and her children and descendants in the female line constituting the Taravad is called a Taivali or the line of a single mother. In its secondary sense the term refers to a branch of the family having separate possession of a portion of the family property for convenience of enjoyment without prejudice to the unity of Taravad interest or to the general control of the Taravad Karanavan. The term includes also a branch holding self-acquired property and at the same time retaining its joint interest in Taravad property. If the Taravad is broken up by partition made by common consent, each branch is called a new or branch Taravad and the divided kinsmen are called Attaladakkam or reversionary heirs. It is noteworthy that the relation of husband and wife or of father and child is not inherent in the conception of a Marumakkattayam family. In cases in which a Nayar woman resides with her husband, it is still considered to be in accordance with immemorial usage to send her back to her own Taravad immediately after or very shortly before his death and not to remove his corpse for cremation until she is first sent away. The person that begot a child on a Marumakkattayam female was originally regarded as a casual visitor and the sexual relation depended for its continuance on mutual consent.

3. On comparing this archaic family with what is known under Hindu Law as the coparcenary or joint Hindu family to the east of the Ghats, it will be seen that the Marumakkattayam family is two stages behind in the career of progress. In the one, the paternal ancestor in the male line is the recognized stock of descent or as Vedic Brahmins say, the Gotra Rishi is the family patriarch; but in the other, descent is traced from the maternal ancestor in the female line. The transition from the one to the other is due to the institution of marriage forming part of the social system. Again, the growth and development of natural affections under the institution of marriage marks another stage at which the patriarchal family was broken up by allowing partition at

the option of any coparcener and transferring women to the family into which they marry. Further, the ancient Roman family was one stage in advance of the joint Hindu family as constituted prior to the establishment of the individual right of partition; for, in the former, the father was substituted for some remote paternal ancestor and each of the children became *sui juris* either on his death, or by emancipation during his life, or in consequence of marriage in "*manum*." Through the several stages of progress, the notion of property is traceable to four principles, viz. (1) that the head of the family was accepted as its representative or the fiduciary owner and manager of its property; (2) that as the family was broken up by partition, its property was likewise divided; (3) that what each member of the family acquired by his unaided exertion was regarded as acquired for the family in which his individual existence was merged. Again, this theory of merger was first modified by the recognition of a personal right of exclusive beneficial enjoyment on the part of the member who acquired the property, and since displaced by the notion of individual ownership which carried with it a power to alienate the property at his pleasure during life.

4. Any enquiry at this distance of time as to the origin of the Marumakkattayam family must from its nature be more or less speculative. The popular belief is that Sri Parasurama was the incarnation of God, that he reclaimed Malabar from the sea and organised the Marumakkattayam system, and that it had thus a divine origin. But comparative ancient history suggests that the social system was probably organised at a time when relationship was derived from the mother and when a child did not know its father and the father, his child, or at all events, when paternity was regarded as uncertain. In a primitive stage of social organisation, relationship might naturally be derived rather from the mother from whom the children indubitably derive their being than from the father, as to whose real relationship a doubt might sometimes arise. The institution of marriage and the relation of father and child seem to us so natural and obvious that we are apt to look upon them as aboriginal and common to the whole human race, but we must dismiss this idea from our minds in order to understand the basis on which the social system was originally constructed in Malabar. For, the recognition of consanguinity as the sole basis of relationship and the elimination at each generation from the family pedigree of the husband in the case of a female and of the wife and children in the case of a male constitute the characteristic features of this unique system of family. This mode of tracing relationship, strange as it might appear at first sight, is not however peculiar to Malabar. Herodotus says that one custom peculiar to the ancient Lycians was that they took their names from their mothers and reckoned up their ancestry in the female line. Lubbock states in his work on Savages that on Etruscan tombs, descent is traced through the female line. Speaking of the ancient Germans, Tacitus observes, children are regarded with equal affection by their maternal uncles as by their fathers, and some even consider this as the more sacred bond of consanguinity and prefer it in the acquisition of hostages. This description seems to point to a state of society in which female inheritance had been recently but not universally abandoned. Again, both Mr. McLennan and Lubbock remark that in the ancient Pictish Kingdom, no son is recorded to have succeeded his father till the 8th century. Turning to India, there are traces in Vedic texts of a controversy as to whether the father or the mother contributes most to the birth of a son and of a recent adoption of the theory that we owe the spiritual part of our nature more to the father than to the mother. It is not unlikely that the recognition of consanguinity as the sole test of relationship had its origin in Malabar in the absence of marriage and in a casual or fugitive relation of the sexes which I term polyandry in this paper, and there is considerable authority in support of this view. It is not denied by several of the witnesses examined by me that polyandry prevailed in ancient times and the Sub-Judge of South Malabar speaks of it as an antiquated practice. His Highness the Zamorin of Calicut accounts for the nephew's succession by referring it to the fact that paternity was originally not known. The Dewan of Cochin considers that the apparent and certain relationship of the child to its mother was the true reason for preferring the sister's son to one's own son as one's heir.

5. It is pretty certain from the usage obtaining in Kovilakams or the families of ancient rulers and petty chieftains that in former times there was no marriage in Malabar. There,

the ladies cohabit with Nambutiri Brahmins without any formality and are at liberty to change them at their pleasure with the consent of the senior Rajas. It may be that the aristocracy of a country adhere to an ancient usage more tenaciously than the middle and the lower classes, but it is anything but probable that the institution of marriage originally existed among the latter whilst it did not exist among the former.

Again, there is a list of sixty-four customs peculiar to Malabar called the Kerala Anacharams or irregular customs of Malabar; and according to popular tradition, they were promulgated on the 26th August 825 A. D. by Sankarachariyar, the great Vedantist and the founder of the school of philosophy known as the Adwaita or non-dualistic school of religious doctrine. The 59th of these customs is that the eldest son of the Nambutiri Brahmin is alone entitled to legal marriage. This shows that so early as the ninth century, the younger sons of Nambutiri Brahmins consorted with Nayar women and that the sexual usage among the latter was not founded upon marriage. There are two vernacular treatises to which reference is often made by the orthodox party, and they are called Kerala Mahatmiyam and Kerala-lolpatti. The former is in Sanskrit and the latter in Malayalam, and both contain traditions current among the people. I find some verses in them which, if authentic, have a bearing on the history of sexual usage in Malabar. One verse says "With one woman, three or four may consort." Another verse is to the effect that "in the middle country one man for one woman, for, so it is among the Gandharvas. Among Devas a woman should consort but with one man on one day." Kerala Mahatmiyam, it is said, is not really an ancient treatise, but it was composed about 150 years ago by a Nambutiri Brahmin. Assuming that such was the case, still it is not without some value as evidence of the practice prevailing at that time especially as a distinction is made between the middle country or North Malabar and the rest of the District.

Moreover, a Mahomedan historian Shiekh Zin-ud-din is cited by Mr. Logan in his Manual as saying in the middle and latter half of the 16th century that each Nayar woman had two or four men who cohabited with her and the men seldom quarrelled, the woman distributing her time among them just as a Mahomedan distributes his time among women. In his account of the East Indies, Hamilton wrote thus in 1727 "The husbands, of whom there might be twelve, but no more at one time, agree very well, for, they cohabit with her in their turns, and he that cohabits with her maintains her in all things necessary for his time". Further, the extracts made by Mr. Winterbotham from the writings of several others lead to the same conclusion,

It is often a historical fact especially in connection with marriages, that certain forms have survived the social exigencies which originated them and there are several such forms in Malabar. Among persons subject to the Marumakkattayam usage in North Malabar, especially at Karutanad, there is a form of marriage called Usham Porukka; and its etymology suggests that one had to wait for one's turn. Another form of marriage which is in vogue in North Malabar and often resorted to by those who are poor in order to avoid the expense consequent on Podamuri or giving cloth which is the approved form of marriage, is called Vidaram Kairuga or coming to the house. A girl married in this form is not to this day taken into the husband's house unless and until Podamuri is performed; this indicates, again, that in former times the husband was a casual visitor at the wife's house. Among the Tiyars of North Malabar a sum of money is paid during the marriage ceremony to the bride's Karanavan called the bride's kanam; this shows that the bride was once treated as mortgaged for use until the kanam was repaid. It is in evidence that some years ago, a suit was actually brought to recover back the kanam amount on the ground that the wife had deserted her husband without good cause, but that the suit was dismissed. Again, the form of marriage in use in the Palghat Taluk is called Kidakkora, which signifies lying together. As part of the ceremony a declaration is made by one of the bridegroom's party to the senior female of the bride's house in the presence of the assembled guests in the following terms:— Let this youth visit this damsel for six months; and a reply is given in the terms 'Be it so'. Apart from negative and symbolic evidence, there is positive evidence to show that polyandry

still lingers in the Ponnani and Valluvanad Taluks especially on the Cochin frontier of the former Taluk. There is a general reticence on this subject among the witnesses probably because, as stated by one of them, it is considered that a candid acknowledgment of its existence is a reflection on the community to which they belong and that it is not proper for a man of respectability to say that it prevails among his neighbours. The fact that a woman has occasionally had four or five husbands in succession is some internal evidence that polyandry has only recently gone out of recognized practice in South Malabar. Among carpenters, blacksmiths and kam-malars in the Calicut, Valluvanad and Ponnani Taluks, several brothers have one wife between them, although the son succeeds the father amongst them. There are two theories as to how polyandry came to prevail in Malabar in ancient times. The one is that Nambutiri Brahmins introduced it for their own benefit on economic grounds, and the other is that Nayars brought it with them when they settled in Malabar, or adopted it from among the aborigines. It is not necessary for my purpose to investigate this question and I pass over it with the remark that a handful of Brahmins who must have settled in Malabar in small groups from time to time could not have succeeded in uprooting the national institution of marriage, if any, even if they had attempted to do so.

6. Whatever may have been the practice in former times, the evidence shows that polyandry has now almost died out throughout Malabar and that several forms of marriage now control the relation of the sexes.

There are six forms of marriage in Malabar and they are known by the names of (1) Podamuri, (2) Vidaram Kairuga (3) Usham Porukka, (4) Sambandham, (5) Kidakkora and (6) Mangalam. The first three prevail in North Malabar and the fourth is observed in the greater portion of South Malabar: The fifth is the name given to marriage in the Taluk of Palghat; it is also used as a synonym for the fourth in parts of the Valluvanad Taluk: and the sixth is the approved form of marriage among Tiyars in North Malabar. The intention to create the relation of husband and wife is, as recognized by society, common to them all and the couple that go through those forms are afterwards known as husband and wife. They precede consummation of the marriage and are generally gone through on the day on which it is consummated. Each of these forms of marriage has its peculiar or distinctive feature. In the Podamuri form, the bridegroom gives and the bride accepts a cloth as the token of marriage. In Vidaram Kairuga, the bride remains in her own Taravad house and is visited there by her husband until it is followed by Podamuri. She is not regarded as fit to be brought by the husband into her own Taravad house or to associate with his female relations on terms of equality of caste. In cases in which this form of marriage proves fruitful, Podamuri usually takes place before childbirth. There is no material distinction between Vidaram Kairuga and Usham Porukka save that the latter is generally resorted to in the former Karutanad Taluk. The ceremony called Mangalam is peculiar to the Tiyars of North Malabar, and during its performance a small sum of money is paid to the bride's Karanavan by the bridegroom as the bride's kanam, and a further payment is made as a matter of form to the bride's uncle's son when the couple leave her house as the price of his preferable right to her hand. Sambandham differs from Podamuri in that the gift and acceptance of cloth form no part of the ceremony, whilst in parts of South Malabar, betel and nuts are given instead of a cloth by the bridegroom to the bride. In Kidakkora, which, as observed already, is the form in vogue in the Palghat Taluk, the permission of the senior lady of the bride's Taravad is asked and given for the bridegroom visiting the bride for a period of six months. How far some of these forms have an historical value as relics of polyandry I have already considered, and it only remains for me to add that the union constituted by them all lasts at present for life in the majority of cases.

7. Turning for a moment to the marriage customs obtaining in Kovilakams, I find that none of the six forms of marriage is observed or has its counterpart there. A ceremony however, called Veli in some Kovilakams and Kaliyanam in others is celebrated with great pomp and at considerable expense. Ordinarily, it is performed before the maiden attains her maturity and the Kovil Tambiran ties a piece of gold round her neck in the Kovilakams in North Malabar, and a member of the family of the Raja of Cranganore does the same in the

Kovilakam of His Highness the Zamorin. The ceremony has however no significance as creating a binding marriage tie. If the Kovil Tambiran or other person tying the neck ornament according to the usage of the Kovilakam is willing to become the husband of the maiden when she attains maturity, she consorts with him. If not, she consorts with a Nambutiri Brahmin without any further formality or ceremony, and after a time she is free to put him away at her pleasure and take another Nambutiri Brahmin in his place with the consent of her Karanavan and protector, the senior Raja of the Kovilakam for the time being. I do not find that relation between the ceremony and subsequent sexual usage which exists between marriage and married life.

8. I may refer here to another customary observance called "Talikattu Kaliyanam" among Nayars and Marumakkattayam Tiyars throughout Malabar. According to custom every girl must go through the ceremony before she attains puberty; otherwise she is considered to lose her caste. In its essence the ceremony consists in tying a piece of gold round the girl's neck, and in its detail I notice certain observances which symbolise a few forms of religious belief amongst the people. As a religious ceremony it is taken to give the girl a marriageable status and in North Malabar she is addressed afterwards as Amma or lady. But in relation to marriage it has no significance save that no girl is at liberty to contract it before she goes through the Talikattu ceremony. On the East Coast a 'Tali' is regarded as a token of marriage and no woman removes it from her neck during her husband's life; but it is not so regarded in Malabar. The ceremony lasts for four days and at its close the girl may remove the Tali if she likes. There is a preponderance of opinion among the witnesses whom I have examined and those who have sent in answers to our interrogatories, that it does *not* constitute a marriage or create a right in the person who ties the Tali to cohabit with the girl. In some parts of South Malabar, however, there is a belief that it is a marriage, but even there, the custom is to tear up a cloth called Kachai cloth on the fourth day of the ceremony as a symbol showing that the marriage has been dissolved. A ceremony which creates the tie of marriage only to be dissolved at its close suggests an intention rather to give the girl the merit of a marriage rite or of a Samskaram or a religious ceremony than to generate the relation of husband and wife. It must be observed here that the tearing up of the Kachai cloth is a form not gone through in North Malabar. The ceremony is designated by some to be a sacramental marriage, and if such is the case, it is so in form but not in substance. That it cannot be otherwise is clear from the fact that the 'Manavalan' as the person who ties the Tali is usually called, does not acquire a right to cohabit with the girl. In North Malabar it is a Brahmin who ties the Tali and he is usually dismissed after the ceremony is over with a small present in acknowledgment of the service rendered by him on the occasion. In South Malabar it is usually an Enangan or a man of equal caste that ties the Tali, though, according to custom in some families, a person belonging to a particular family is eligible for the purpose. Among the Marumakkattayam Tiyars of North Malabar, a woman of the barber caste formerly used to tie the Tali, but a party of reformers headed by the late Deputy Collector Mr. Kanaran altered the practice when Sir W. Robinson was the Collector of the District, and according to the altered practice, it is the intended husband's sister and in some cases the intended husband himself that ties the Tali. It is a curious fact that the same man may at one time tie the Tali upon a number of Nayar girls collected together under one decorated pandal or upon several sisters. There is also no objection to the same person tying the Tali at one time on the mother and at another time on her daughter. The fact is that whatever may have been its historical origin, the ceremony has at present no other import than that of an essential caste observance preliminary to the formation of sexual relation and is analagous to the ceremony of Samavartanam prescribed for Brahmin bachelors who desire to terminate the Brahmachari Asramam or the status of Vedic student, and enter on Grihastha Asramam or the status of a married man. Having regard to the fact that several of its details bear a resemblance to a portion of the marriage ritual observed by Nambutiri Brahmins, it is not unlikely that they introduced the ceremony among Nayars as a caste rite, but it must be remembered that the essential element of a Brahminical marriage, *viz.* taking the bride by the hand or Panigrahanam and the walking of seven steps or Saptapadi, and the Homam or sacrifice to the fire, are not to be found among its details,

9. Passing on to another marriage custom, a Nayar female is not at liberty to marry a Nayar of an inferior sub-division of her caste whilst a Nayar male is at liberty to marry a woman of an inferior sub-caste, though it is not competent to either of them to choose a wife or husband from outside the Nayar caste. For instance, neither a Nayar male nor female can marry a Tyati or Tiyan, and if such a marriage is contracted, the male or female belonging to the higher caste loses his or her caste altogether. Again if a Nayar woman takes a husband from an inferior division of her caste, she is excluded from social intercourse on terms of equality of caste though not from the use of caste temple or tank. This rule of inter-divisional prohibition is, however, one-sided ; for, if a man of a superior division of a Nayar caste selects a wife from an inferior division, the marriage is recognised as valid in society though the wife is not permitted to enter the kitchen in respectable Nayar families or Taravads.

So far as a marriage is forbidden outside the Nayar caste, the practice is in accordance with the rule of Hindu Law, *viz.* choose your bride inside the caste but outside the family. So far as the inter-divisional prohibition is concerned, the rule is borrowed from that branch of ancient Hindu Law which regulated the constitution of mixed castes. There was a time in the history of Hindu Law when a man who was born to a Kshatria or Vaisya might become a Brahmin or a Kshatria. Thus Visvamitra, a Kshatria by birth, became a Brahmin by learning and merit. At a later stage of the history of Hindu Law, advancement from one caste to another by piety and merit was abolished as a caste institution and a rule was introduced that one could only rise from an inferior to a superior caste if one's paternal ancestors belonged by birth to the latter for a prescribed number of generations. The notion on which this rule was based was that in the procreation of a child, the creative power of the father was the dominant factor and that it was his caste status that purified and improved that of the mother and the child. On this view a Brahmin or a Kshatria woman was prohibited from marrying a Kshatria or a Vaisya respectively, whilst a Brahmin or a Kshatria was at liberty to marry a Kshatria or Vaisya woman. The one connection was said to be in the inverse order and to lower the status of the woman and her child, and was forbidden. The other connection was considered to raise the status of the mother and the child and was described to be in the direct order, and it was therefore permitted. The connection in the direct order was termed *Anuloma* and that in the inverse order was called *Pratiloma*, and the rule was extended to intermarriages between Brahmins and the inferior castes when they were permitted by ancient Hindu Law. It is this doctrine of *Anuloma* and *Pratiloma* that explains the custom which is found to prevail among Nayars.

There is strong reason to think that the *Talikattu Kaliyanam*, the prohibition of sexual union outside the caste and the doctrine of *Anuloma* and *Pratiloma*, were originally introduced by Nambutiri Brahmins as restrictions on polyandry. The first was probably designed to give the woman by a solemn ceremony a caste status so that its loss might operate as a punishment, and the second and the third were designed to restrict the original tribal polyandry to one with a man of superior caste or of the same division of caste, the violation of the rule being punished with loss of caste. As the Nambutiri Brahmins belonged to the highest caste, the practice of women consorting with them came to be regarded as the approved form of sexual usage, and it was generally resorted to by the aristocratic classes, who were better able to secure them as consorts for their women. The middle and lower classes regulated their practice in the same way and restricted the union of their women with persons of the same and superior divisions of caste. It is not difficult to understand that when forms of marriage were since adopted the restrictions that had prevailed before were retained as restrictions on marriage. The evidence shows that if a Nayar female consorts with a male without going through any of the forms of marriage, she is not put out of caste even in respectable families, provided that he acknowledges the intimacy and he is of equal or superior caste. This sort of union, though not common, has not yet disappeared, nor is it treated as prostitution as is the case on the other coast. This is, again, another relic of the communal marriage or caste polyandry that preceded the introduction of individual marriage.

10. There is another marriage custom prevailing in North Malabar. A woman crossing the river called Korapuzhai, which runs on its southern frontier, is supposed to forfeit her caste, and the orthodox belief is that it is not competent for her to marry in South Malabar which lies to the south of the river, but the men of North Malabar are not under such disability. This custom is common to both Nayars and Tiyars. In South Malabar an alliance with a male or a female of North Malabar is considered to be a preferable union. From necessity the custom was not rigidly adhered to since the introduction of the British rule in villages which lie on or near either side of the river. In recent years there has been a tendency to depart from it, but the instances of such departure are not as many as might be expected from the progress of education. Among Tiyars there is but one caste, the only distinction being that those residing in North Malabar conform to the Marumakkattayam usage, while the Tiyars in South Malabar follow the Makkattayam or the system of inheritance according to which the son is his father's heir. Nevertheless, the custom is not without some force amongst them. Notwithstanding the occasional departure from the immemorial usage in these days of free intercourse between different parts of Malabar, it has not yet lost its hold on the public mind in North Malabar. It is in evidence that when a Nayar of North Malabar marries a woman of South Malabar, that part of the marriage ceremony which consists in the formal taking of the bride into her husband's house in procession on an auspicious day is dispensed with. If the husband brings his South Malabar wife into his North Malabar Taravad, the orthodox females of the Taravad endeavour to exclude the new comer from the kitchen which, according to popular belief on the West Coast, must be free from what is called pollution. As to the origin of the custom, three versions are given. According to one it was due to an edict of one of the ancient Kolatri or Chirakkal Rajas that the women in his territory should not cross the frontier river lest they might sympathise with their husbands who were the subjects of the then ruler of South Malabar. The objection to this view is that the prohibition is one-sided and applies only to females. Another version is that polyandry prevailed largely in South Malabar whilst North Malabar was comparatively free from it, and that the edict was issued to protect the purity of women. Historically, this appears to have some foundation, for in the vernacular treatise called Kerala Mahatmiyam, the verse says that women in North Malabar live with but one man at a time. A third version is that women had to be ferried over the river in small boats manned by Moplas and that fear of pollution accounts as well for this usage as for other river objections. A Tiyar witness at Tellicherry has stated that the Tiyars of South Malabar readily intermarry with an inferior class called Iluvars and that there is an apprehension in North Malabar lest a Tiyar woman may by forming an alliance in South Malabar marry one whose caste is not free from alloy. There is also a belief among the Nayars of North Malabar that they are more conservative and adhere to caste rules more closely than is the case in South Malabar, and that the rule of interdivisional prohibition regarding marriage is not so rigidly observed in the Ponnani Taluk and in other parts of South Malabar as in the North. Whatever version may be correct (probably each version has had its share in originating and strengthening the usage) the fact is that it is still considered binding as a rule of caste among the majority of Nayars and Tiyars of North Malabar.

11. There are a few more marriage customs which I ought not to pass over. As regards the marriageable age, there is no customary restriction, marriage before puberty being permitted though it is neither obligatory nor common among Nayars and Tiyars. Among Nambutiri Brahmins, women often marry long after they attain maturity, though in theory marriage before puberty is considered to be preferable. No special objection is, however, generally urged by the witnesses so far as the Bill does not recognize child marriage. Again, a re-marriage is not forbidden by custom on the death of the husband though among Nambutiri Brahmins, enforced widowhood is a recognized institution as on the East Coast. Polygamy is, however, allowed among Nayars and Tiyars, though it is not common, and in this respect the custom is in accordance with the modern Hindu Law. As regards the freedom either to marry or not to marry, it is conceded to women as well as to men, the rule of Hindu Law which prescribes marriage as indispensable to women having no obligatory force either

among Nambutiri Brahmins or among Nayars and Tiyars. With reference to prohibited degrees of relationship, the rule, as founded on consanguinity, is that persons descended from a common female ancestor are not at liberty to marry one another. Among Nambutiri and other Brahmins the rule is that there can be no legal marriage in the same Gotram, the only distinction between them and Nayars and Tiyars being that the female ancestor is substituted for the male ancestor as the person from whom descent is to be traced. The Bill departs from this custom so far as it restricts the prohibition to five degrees. With reference to forbidden affinity, the rule of prohibition is considered to be the same, no member of the Taravad of a deceased wife or husband being eligible as the second wife or husband. On this point, however, there is a difference of opinion in South Malabar, several confining the prohibition to such relations by affinity as stand in the position of parent or child. The Bill, however, prescribes the same rule of prohibition both as regards relationship by consanguinity and affinity.

12. Having described the marriage customs, I proceed to consider the second question, *viz.* whether they are connected with the religious observances of those who are subject to the Marumakkattayam law. As observed by the Government of India, there is always a connection between the two on the other side of the Ghats where the law of inheritance is founded upon a theory of spiritual benefit, and the theory of spiritual benefit depends on a sacramental marriage; but on this coast the law of inheritance is independent of marriage. It is true that Marumakkattayam Hindus follow the Hindu religion and consider that funeral and annual obsequies are indispensable to the spiritual benefit of their deceased ancestors. It is also true that the right to property and the obligation to make the funeral and annual offerings go together and are to that extent correlated to one another. But they depend in Malabar, not on sonship, but, on the relation of nephew and maternal uncle, of junior and senior Anandravans, or of ascendant and descendant in the direct and collateral lines of ascent and descent. This distinction is the outcome of the family system in which the relation of father and child is not a recognized factor. Looking to the forms of marriage in use, they are not regarded as constituting a religious ceremony or a Samskaram, or sacrament in the Hindu or European sense of the word. There is no officiating priest in attendance, there is no formula to be repeated, there is no Vedic, Puranic or religious chant or exhortation, and there is no formal benediction. Whilst neither Podamuri nor Vidaram Karigai nor Usham Porakka nor Sammandham nor Kidakkara nor Mangalam is a religious ceremony, they are forms of marriage conventional among the castes and classes that conform to them so far as they embody certain forms of national belief in what is deemed customary to ensure a prosperous union. The ascertaining of the agreement of stars, the fixing of an auspicious day, presents to Brahmins, the lighting of one or more lamps in the presence of the bride and the bridegroom and the sprinkling of grains of rice by the senior lady of the bride's house over the lamp and over the couple, are incidents which, according to popular notion, presage a happy marriage. Here I must observe that the Talikattu ceremony or Kaliyanam which is considered to be a religious ceremony is only a caste rite analogous to Samavartanam among Nambutiri Brahmins. While it is an indispensable preliminary to contracting a marriage, it does not of itself constitute a marriage. Although the Veli ceremony performed in some Kovilakams and in Kshatria families is ritualistic and similar to the marriage prescribed for Nambutiri Brahmins, yet it is not marriage in the sense that a man and a woman are united together as husband and wife and that they acquire an exclusive right to conjugal intercourse with one another. The conclusion I come to is that the marriage customs among Marumakkattayam Hindus have no connection with their religious observances such as exists under ordinary Hindu Law.

13. The third question is whether a majority of Marumakkattayam Hindus desire legislation to regulate their social marriages, and the Commissioners are unanimous in thinking that a very large majority desire no change in their usage. Most of the Kovilakams or the families of the ancient rulers of the country are of that opinion. The families of former petty local chieftains such as Stanis, Naduvalis and Desavalis and the aristocracy in gene-

ral are also not in favour of legislation. The great majority of landholders or representatives of respectable Taravads are against legislative interference and it is the interest of Nambutiri Brahmins to oppose it. The official and the educated classes and those who come within the sphere of their influence by family connections or business relations are divided in opinion. A large majority of even those classes are against legislation on the lines suggested by the Bill, but a good proportion of them, especially in South Malabar, is in favour of legislation with considerable modifications. The opposition to the Bill is very strong among Nayers generally throughout North Malabar though among Tiyars at Tellicherry and Cannanore, a good number is in favor of a modified form of legislation. A comparatively strong minority support it in the Palghat Taluk where several influential Taravads have recently suffered from dissensions among Karanavans and Anandravans. I must here mention that a large number of representative men among landholders in the District have not come forward to express their views although all that could be done was done to draw their attention to the object of our enquiry. From what I have heard from Tasildars, District Munsifs, members of the local Bar and some influential landholders throughout the District, I believe that they are averse to any change and that their reluctance to come forward is due to a national idiosyncrasy and not to a tacit assent to the proposed legislation. I also understand that there is a general impression that it would disturb the harmony that exists at present among females in Taravads and break up the Taravad system which they still desire to preserve as their immemorial institution having, as they suppose, a divine origin. I must answer this question in the negative.

14. The next question which we are asked to consider is whether legislation is necessary for the protection of the minority, and if so, whether it is expedient. The minority that desires legislation in a modified form is numerically small, its percentage being very low—about one in one hundred and fifty. It consists in the main of the educated and the official classes and of those who come within the sphere of their personal influence. The number of graduates, undergraduates and matriculates in the District is about 1000 and the numbers of officials drawing a salary of more than Rupees 10, Rupees 20 and Rupees 50 a month are respectively 1063, 245 and 90. Among the educated classes there are two sections, one holding that beyond creating a testamentary power in regard to self-acquired and separate property, there ought to be no interference with the existing usage, and the other also desiring a modified form of legislation. The former say that the relation of the sexes as regulated by social marriages and protected by social opinion is as satisfactory as can be desired, that instances of arbitrary and capricious divorce are rare and are always reprobated in society, and that wives and children are generally well provided for among respectable classes by gifts *inter vivos*. They go on to observe that what is needed is neither a new form of marriage, which though permissive is likely to introduce among females belonging to one and the same Taravad the invidious distinction of those who are legally married and those who are not, nor a new law of succession in regard to self-acquired property which would deprive the Taravad of one main source of acquisition from which it is from time to time recruited, and thereby pave the way for its gradual deterioration and ultimate extinction. They urge further that a double system of succession would lead to quarrel and litigation and that the great majority of the people are still attached to their Taravads and to their immemorial law of inheritance which, they believe, is founded on divine ordinance. On the other hand, those who are in favour of legislation say that at present, adultery, bigamy and enticing away a married woman are not penal, that public opinion, though some check, is not a sufficient deterrent, and consequently men are tempted to take the law into their own hands and to commit crime. They also allege that at present there is no protection against wives and children being left destitute in cases of intestacy and that it is unjust that the law should ignore their status as fathers and that of their women as wives. Whilst concurring in the opinion that a testamentary power is needed by almost all, they add that only a share varying from $\frac{1}{3}$ to $\frac{1}{2}$ of self-acquired and separate property should be given to wife and children in cases of intestacy. Moreover, they generally urge that the existing forms of social marriage should be legalised, that no one needs a new form of civil marriage, that caste and customary restrictions

on marriage should be retained and that the existing freedom of divorce should not be taken away. They object to a system of divorce as embodied in the English Law or in the Indian Divorce Act or in the Parsi or Brahma Samaj Marriage Acts, and suggest that new provisions should be framed in view to afford on the one hand facilities for divorce and on the other to prevent arbitrary or capricious dissolutions of marriage. They are almost unanimous in deprecating a resort to divorce Courts and the necessity for public revelations of frailty in domestic life. The proportion of the educated and official classes who desire legislation subject to the modifications described above is about sixty per cent. of their total strength. An overwhelming majority however object to the Honourable Mr. Sankara Nair's Bill in its present form and the number that would take the Bill as it stands is too small to render legislation expedient on their account. The principal objections urged against it are (I) that it ignores caste and customary restrictions on marriage and thereby interferes with caste, (II) that it sanctions what are according to social usage deemed to be incestuous marriages; (III) that the form of a marriage before the Registrar is obnoxious to the people and that no one has any scruples about going through the customary form (IV) that the provisions relating to divorce are ill-adapted to the present state of society in Malabar and that revelations of conjugal frailty in public Courts are most repulsive to the people and (V) that the provision which gives the whole of the self-acquired property to wives and children to the exclusion of the Taravad and Taivali relations amounts to violent interference with the customary law of inheritance and goes beyond what husbands and fathers do during their lifetime inasmuch as in disposing of self-acquired property by gift *inter vivos* they as a general rule give only a part to their wives and children and reserve the remainder for the Taravad or for their sisters and nephews.

15. In this connection I should also enumerate the several influences at work among Nayars and Tiyars which help on social evolution in favour of an organised system of marriage. I may mention amongst them (I) gifts from husbands and fathers to wives and children, (II) the general practice in North Malabar for the wife to live with her husband not only when the latter has self-acquired property but also with the permission of his Karanavan when he has no such property, (III) the comparatively recent practice among the respectable classes in South Malabar to imitate North Malabar generally in the case of Karanavans and occasionally in the case of Anandravans, (IV) the growing practice of marrying at a distance instead of in the vicinity as was the case prior to the introduction of railways and the increased facilities of communication, (V) the uniform and rigorous administration of justice in British Courts which prevents men from taking the law into their own hands, (VI) the exigencies of official life and (VII) above all, the steadily increasing influence of Western ideas and culture. Whilst on this subject, I have considered also the question whether the Courts are likely to recognize the existing social marriages as legal marriages, and it is very doubtful that they will do so. It is no doubt true that there is a customary marriage and that a contract may be inferred from its incidents. But having regard to the fact that in theory either party may arbitrarily repudiate it at will, the obligation created by it is one which either party may ignore at his or her pleasure and there is no uniform formality which may be accepted as a customary regulation fixing its duration throughout Malabar. It is a contract of which the breach, though checked in some measure by public opinion, is neither invariably nor effectually restrained by a definite rule. Such a contract is a contradiction in terms and is not likely to be accepted as creating a binding tie until and unless the practice of divorce is regulated in some mode so that the obligation may invariably be taken to subsist until the regulation is complied with. The conclusion to which I come is that a very small minority desire legislation on the customary basis and in a popular form and that it is necessary to their protection and highly desirable in aid of progress and good morals. I am however of opinion at the same time that legislation on the lines suggested by the Honourable Sankara Nair's Bill is inexpedient and is likely to prove unpopular. It does not steer clear of rules of caste which is a religious institution or of the ancient and customary law of inheritance which the masses still suppose to be of a divine origin. It purports further to introduce a highly elaborated system of judicial divorce amidst a people who are just emerging from a type of polyandry at least in the greater part of South Malabar, and to prescribe a statutory form of civil marriage which is

obnoxious to the people and which is required by no section of the educated classes in the District. It sanctions again what are deemed to be incestuous marriages and is regarded as dealing lightly with the solemn domestic event of a people who attach special weight to conventional forms of marriage, and to cast a stigma upon those forms by ignoring and practically superseding them. If legislation is undertaken at all, it must be on a popular basis and in a mode which interferes neither with caste nor with the immemorial law of inheritance, and sufficiently takes into account the habits of the people as regards the privacy of their women and which does not force on them an elaborate system of judicial divorce contrived to meet the requirements of societies where the institution of marriage has prevailed for centuries, and time has invested the bonds of marriage with the highest possible tension. If these are not to be recognized as the conditions of practicable legislation, I must say that legislation is not expedient for the present. The case would then stand thus, the majority do not desire any change and say we never felt the want of a marriage law and sought for it. Half of the educated classes go with them and say that our social marriages are as good as legal marriages and our women are adequately provided for by gifts *inter vivos* and that all that we need is only testamentary power as regards self-acquired and separate property. The other half say we do not desire to give up caste or to ignore the customary degrees of prohibited relationship nor do we desire to ignore the customary forms of marriage or the claims of our sisters and their children, though we wish to provide for our wives and children out of our self-acquired property. We desire to have our marriages protected by legislation, but we do not seek to hamper our freedom of divorce by restrictions borrowed from other systems of law but ill-suited to our present social condition. The only alternative suggested by the exigency of the situation is either that of legislating on a popular basis by legalising the existing marriage customs as far as possible and permitting a system of free divorce by judicial process as contradistinguished from an elaborate system of judicial divorce or that of deferring legislation for the present except for the limited purpose of authorising testamentary disposition of self-acquired and separate property. As regards the argument that the law is only permissive, they say that the parties who may marry under the Act are members of Taravads or *quasi* corporate bodies and that any law which affects them individually is likely to have the same effect upon their Taravads as pulling out a corner stone is likely to have upon an ancient edifice. If legislation on a popular basis together with a system of free divorce by judicial process could be adopted, I would recommend it, for it would gradually nationalise the institution of marriage in the course of a few years and aid social progress and supply a want felt at present by no doubt a very small but a growing minority. I hesitate to assume the responsibility of submitting to the Government that legislation on any other basis is expedient for the present except for the purpose of legalising testamentary disposition of self-acquired and separate property. I shall recur to the question how far legislation is expedient even on the popular basis after considering the other questions suggested by the Government of India.

16. The next question for consideration is what is the form which legislation, if any, ought to take.

I. The new Act should purport to legalise the existing forms of social marriage and not to provide a new form of civil marriage. In the first place it is unnecessary to contrive a statutory form when there is a form already in use in society. As pointed out already, there are six forms of marriage which though different in different parts of Malabar are adopted in a public manner in the presence of a large number of friends and relations as modes whereby the intention of the parties to constitute the relation of husband and wife is manifested. Again, a statutory form will seldom prove acceptable to a community which attaches a special value to a conventional form as conducive to a prosperous marriage. By superseding the customary form, it is liable to be misconstrued as casting a stigma upon it. The Registrar before whom the marriage is to take place according to Mr. Sankaran Nair's Bill may be a Tiya, a Mopla or an East Indian; and in Malabar, especially in North Malabar and among the respectable classes throughout South Malabar, there is a prejudice against young women appearing in public offices. It was proposed during the discussion among the Commissioners that the statutory form might be retained in addition to the customary form. Where is the

necessity for it? Neither the educated nor the uneducated have the slightest scruple about going through the customary form. The only case suggested is that of a young man taking fancy to a pretty girl and desiring to contract a marriage because his Karanavan or his Taravad is unwilling to sanction the union. If the couple are *sui juris*, the consent of their guardians is unnecessary, but if they are not *sui juris* and need the protection of guardians, the couple ought to wait until they attain to the proper age and it is not for the legislature to open a door for romantic marriages and to ignore the right of legal guardians. I do not think that in the present state of society in Malabar a statutory form of marriage is desirable either in addition to or in supercession of the existing customary form.

II. Again, the marriage to be legalised must be between persons who are permitted to cohabit with each other by the custom obtaining for the time being in the caste to which they belong. It will be observed from the marriage customs already described that there are two restrictions on marriage due to caste. The one is that no Nayar male or female shall marry below and outside his or her caste, and the other is that no female shall marry into such a sub-division of her own caste as would entail on her forfeiture of caste. Both these restrictions have, as explained before, a legal origin, the one in the general rule of Hindu Law obtaining at present on the other side of the Ghats, and the other in the Anuloma doctrine of ancient Hindu Law. In dealing with a customary marriage in a society which recognizes caste as a *quasi* religious institution, I see no alternative but that of recognizing such marriage customs as have a legal origin, although I would not fossilise them but help on social evolution by inserting the words "for the time being" and thereby recognizing any change which may take place from time to time owing to the spread of education. I would also fix the prohibited degrees of relationship in accordance with custom and introduce no change so as to sanction what may be characterised as an incestuous marriage. As regards the belief that a woman in North Malabar is not at liberty to cross the Korapuzhai river, it relates to territorial residence and is not referable to any principle of Hindu or other system of law. From the reply of the District Munsif of Badagara it appears there are objections to crossing other rivers in the District and the restriction is not one which can be upheld as reasonable, and I shall leave it to be regulated by social opinion.

III. Further, the form in which marriages may be contracted under the Act ought to be described as the one customary in the caste or class to which the woman belongs. It is necessary to describe it so in order that a Nambutiri Brahmin or a male member of a Kovilakam may contract a marriage under the Act if he chooses to do so; otherwise there may be no form applicable to the case as the Brahmin or the Kshatriya marriage ritual does not apply to a marriage with a Nayar woman. In dealing with the intricate question of caste it will be seen that I have kept before my mind three principles, *viz.* (I) that the State should not repudiate caste restrictions, for such repudiation would be deemed to be an interference with caste rules, (II) that it should tolerate such restrictions only so far as they have a legal origin and passed into what might be deemed a customary law and (III) that society should be left free to alter them from time to time with reference to the requirements of social progress.

IV. The next provision which I considered relates to the marriageable age. The Bill fixes it at 18 in the case of males and 14 in the case of females. In the Marumakkattayam family, every member, whether a minor or an adult, is subject to the Karanavan; and under the Roman family system, a marriage contracted without the consent of the father was null unless the father subsequently approved of it. It appears, however, from the evidence that Anandravans in Malabar do not always obtain the consent of their guardians and that the only mode in which Karanavans deal with such conduct is that of refusing permission to the Anandravan bringing his wife into the Taravad house unless and until he is reconciled to the union. It is advisable not to restrict the freedom of adults to marry without the consent of their Karanavans and at the same time to fix the age at which the Karanavan's consent may be dispensed with sufficiently high to enable the contracting parties to see whether they can support the obligations of married life without aid from their Taravads. On these considerations the age upto which the Karanavan's consent is necessary may be fixed at 21 years.

V. Another condition contained in the Bill is that the man or woman shall have no wife or husband living at the time when the marriage is contracted. This may be adopted as necessary to prohibit polyandry and polygamy. The object with which legislation is proposed is to nationalise the institution of marriage and to prevent polyandry. The evidence shows that it had died out long ago in North Malabar and that it has almost died out though more recently in South Malabar. As regards polygamy it is acknowledged to prevail but seldom. Several witnesses, however, advocate its retention on the ground that it is sanctioned by Hindu Law, but as the proposed legislation is permissive and as it is the educated men who move for it, I consider that the restriction ought to be retained in the interests of women. I have also before my mind that it is the nephew or the Anandravan who is entitled to make the funeral or annual offerings under the Marumakkattayam system, and the remarks of Lord Brougham in *Warrender versus Warrender* and in the case of Hyde and Woodman in which a polygamous marriage was held to be no marriage in an English Court of Justice.

VI. The next provision which was considered relates to the machinery provided for making registration evidence of a marriage under the Act. Though most of the witnesses object to the celebration of marriage before a Registrar, many have no objection to registration being constituted as evidence of its legal recognition provided that the bride is declared exempt from personal appearance in the Registration Office. It is necessary, however, to prescribe some mode whereby marriages contracted under the Act may be distinguished from social marriages to which it is not the wish of the parties concerned that the proposed Act should apply. A declaration embodying the necessary information is considered to be appropriate and it may be provided that it should at the time of marriage be signed by the parties to it and also by their legal guardians when they are under 21 years of age and attested by not less than two witnesses. It may be further provided that the declaration should be registered in accordance with the provisions of the law applicable to the registration of Assurances, the bride being exempt from liability to appear in the Registration Office. It may also be declared that the declaration or a registered copy of it shall be evidence of the facts stated therein without further proof.

VII. The next branch of marriage law which I have had to consider relates to divorce. Any system of divorce that is introduced must satisfy two conditions, viz. (1) that it must be suitable to the present state of conjugal relation in Malabar and (2) that it must at the same time adequately ensure the stability of the matrimonial union. Among Marumakkattayam Hindus, marriage has yet to be legalized; polyandry has ceased but recently, and no religious sanction sustains the notion that one man is united in wedlock to one woman all life for better or for worse. The basis on which the duration of the marital relation rests is that the couple should do their best to get on together well and that, if they fail, it must cease. Hence the husband or the wife may in theory divorce the other at will. But in practice neither does so except for a cause which commends itself to his or her family and to the society in which they move. Arbitrary divorces appear to be rare, much more so in North than in South Malabar. In most cases the Anandravans are too poor to support a family and have no self-acquired property, and they work for their Taravads and marry or put away their wives only with the consent of the Karanavan who allows them to bring their wives into the Taravad house and maintains them out of Taravad income together with other Taravad relations. This is the general practice in respectable Taravads in North Malabar when there is cordiality and harmony in the family. What grounds of divorce are considered reasonable in Marumakkattayam society and whether any formality is observed when marriage is dissolved are matters concerning which I have taken evidence. But the evidence is discrepant and conflicting and conveys the impression that save adultery no other determinate cause is recognized and no specific form is observed throughout Malabar or even in the same part of the District. Adultery, cruelty, mutual desertion, disobedience on the part of the wife, neglect to maintain on the part of the husband, incurable or infectious disease, impotency, barrenness stealing the husband's property, levity of conduct and incompatibility of temper are among the causes enumerated by one or other of the witnesses. It is stated by several witnesses that the wife is at liberty to take a second husband if the first discontinues matrimonial intercourse for one year and omits to send to her the customary presents during the two principal

feasts of the year, *viz.* those of Vishu and Onam. It is also observed by some witnesses that in parts of the District, when the husband desires to divorce the wife, he takes one or more cloths to her Taravad house and leaving them there, announces to her Karanavan that he divorces her. These causes and forms do not however appear to be so general or uniform as to render it safe to accept them as containing the elements of a customary law. What scheme of divorce is then best adapted to Marumakkattayam Hindus?

The Honourable Mr. Sankara Nair has incorporated into his Bill the provisions of the Indian Divorce Act and those of the Parsi Marriage Act. Even most of the educated and official classes of Malayalis, who desire legislation, insist that they be expunged, and the strong opposition which the Bill has evoked throughout the District is in the main due to them. The principal ground of objection is that they constitute an elaborate system of judicial divorce devised to support a high standard of matrimonial sanctity not unfrequently found impracticable even in societies in which marriage has been a religious as well as a legal institution for centuries and in which lapse of time and strength of religious sentiment have carried it beyond the stubborn exigencies of married life. Another ground of objection is that the procedure prescribed by the Bill is complex and that suits for nullity of marriages, for judicial separation and for divorce, accompanied as they are with public revelations of the frailty of domestic life, are obnoxious and repulsive to the people of Malabar as elsewhere. Having regard to the history of the modern system of divorce law in England, on which Indian enactments are founded, and considering how divorce was absolutely forbidden before the Reformation, how the prohibition was enforced by Ecclesiastical Councils likening marriage to the union of Christ with his Church, how more practical views came to prevail after the Reformation, how slow, notwithstanding, was the progress from legislative to judicial divorce and from the notion of religious to that of civil marriage and how closely every departure from the requirements of a sacramental marriage was hedged around and restricted, I am inclined to think that the objections are not without weight.

On referring to the history of the Civil Law, I find that in ancient Rome, as in Malabar, there was free divorce. There, divorce was permitted either by mutual consent or at the will of either of the spouses, and Gaius refers to it as existing in his time; and divorce at the pleasure of either party was called Repudiation. Until the close of the Republic and the commencement of the Empire, social opinion was found to be a sufficient check upon the abuse of the right of free divorce, and bright pictures of conjugal fidelity and devotion were not uncommon during that period of the Roman history. Here I may state that Mr. Logan observes in his District Manual that female chastity in Malabar is as good as elsewhere though marriage is not a legal institution and that "nowhere else it is more jealously guarded and its breach is more savagely avenged". The system of enforced privacy in the case of women and their early home training lend weight to Mr. Logan's remark as a correct description of the case in North Malabar and also generally in South Malabar. After the commencement of the Empire, Roman manners became corrupt and the right of free divorce was abused so much so that the general depravity was censured by Seneca and satirised by Juvenal. Under the guidance of eminent jurists imperial enactments were passed, not to take away the right of free divorce, but only to restrain its abuse. The procedure adopted was this. What were deemed by the State to be good causes of divorce were formulated and pecuniary penalties were prescribed for repudiation without a just cause. If the wife was the guilty party, she forfeited her right to claim the *dos* and, if no *dos* was constituted, she forfeited one-fourth of her property of which the ownership vested in the children and the usufruct in the husband. If the husband was the guilty party, he incurred a similar forfeiture in favor of the children, the usufruct alone vesting in the wife. If there were no children the ownership of the property forfeited vested in the innocent party. On the conversion of Rome to Christianity, Constantine passed an imperial enactment limiting the right of divorce to three cases specified with regard to the husband and to three mentioned with reference to the wife, and he did so owing to the uncompromising vehemence with which Councils of the clergy denounced the sinfulness of

divorce; but the habits of the people were too strong both for the decrees of Council and for the enactment of the Emperor. The result was that after one or two slight modifications the enactment was withdrawn and the freedom of divorce re-appeared in the Institutes of Justinian with all its former incidents. Again, although divorce is not allowed under the Hindu Law as administered to the regenerate classes on the Eastern Coast, the Smriti of Yagnavalkya directs that if one supersedes his wife without just cause, he shall forfeit to her one-third of his property, and the Hindu Law of unjust supercession recognized a principle of compensation to mitigate its rigour when it was found impracticable to prohibit polygamy.

With these general remarks, I proceed to explain the scheme of divorce which is suggested. It is framed on the view that a system of free divorce by judicial process, as contradistinguished from an elaborate system of judicial divorce, is alone adapted to the present condition of Marumakkattayam Hindus. Either the husband or the wife is recognized as being free to divorce the other with reference to the existing custom. It is framed by analogy to the right of repudiation considered by the Roman law to be applicable to a similar state of society.

But in the Roman law it was the private act of the party concerned, though at a later period it became the general practice to send a notice in writing by means of a freedman who delivered it to the other party in the presence of seven witnesses. The intention was to preserve clear evidence of the transaction, and with the same object a judicial process and a judicial declaration are substituted as far more effectual than a private intimation which may be denied and give rise to litigation.

To prevent, however, the abuse of a right of free divorce, two restrictions are imposed. The first is that the application for a notice should have the consent of the Taravad or Taivali Karanavan endorsed upon it except in cases in which the husband who divorces his wife lives separately from the Taravad and has independent means of support. This will create a necessity for discussion in a family council and thereby prevent the exercise of the right on a sudden or hasty impulse. In devising this check, I only follow the general Taravad usage in North Malabar already mentioned. The second restriction consists in prescribing an interval of two years before the marriage is dissolved. It is imposed by analogy to desertion for two years and intended to afford ample opportunity for reconciliation and to render temporary dissension between the two families innocuous.

The above was the scheme framed at Calicut after discussion among the Commissioners, but on further consideration, it appears to me desirable to reduce the period of probation to one year and to bring it into conformity with the practice obtaining in parts of Malabar according to which cessation of matrimonial intercourse for one year is considered to be equivalent to a divorce.

17. To this scheme the objection was taken that, as it differs from the Divorce and other cognate Acts in force in India, it might not be accepted, and it was suggested as an alternative that the Government might be enabled to extend either at once or after the Act had been in force for sometime, the provisions of the Divorce Act. After carefully considering the matter, it seems to me that the alternative suggested is likely to render legislation unpopular and inexpedient, one of the conditions, subject to which legislation is desired, being that the Divorce Act and the provisions of other cognate enactments should not be extended to Malabar.

If an alternative scheme is deemed indispensable it appears to me desirable, at all events for several years to come and until the institution of marriage is nationalised, to follow the Civil Law and to declare as just grounds of divorce the causes specified in the Indian Divorce Act and in other cognate enactments as just causes either for dissolution of marriage or for judicial separation, and direct that if either party repudiates the marital relation without a just cause, the guilty person shall forfeit one-fourth of his or her self-acquired property, if any, to the other, and that, if there are children, the ownership shall vest in them, the usufruct alone vesting in the innocent wife or husband during her or his life. It seems to me that when social opinion is found to be unequal in its practical operation as a restraint in this country, a penalty

such as the one proposed will prove effectual and affiliate the right of repudiation to modern legislation on the subject. In suggesting the adoption of this principle of compensation, I only follow the Civil Law and the Smriti of Yagnavalkya, and substantially make a provision for the wife who may be unjustly superseded and give the corpus of the property to the children, if there are any. The husband ordinarily makes a provision throughout Malabar in the form of gifts *inter vivos* when the conjugal union lasts for life as intended when it was constituted. If the principle of compensation is adopted as a check, it is desirable to reduce the period of probation to 6 months. It only remains for me to mention what should be deemed just causes of divorce. As to adultery, cruelty and desertion for two years, they are causes recognized by the English Law of Divorce. I would add to them change of religion, impotence, sexual incapacity, permanent and infectious disease, unsoundness of mind or any other cause which renders the mutual discharge of matrimonial duties incompatible with due regard to personal safety. As regards adultery the rule is that if the wife is guilty of it, it is considered to be a just cause of divorce. If the husband is the guilty party the rule is otherwise; some aggravating circumstance is insisted on as detailed in Section 10 of Act IV of 1869. This rule appears to me to be open to question for several reasons. Viewed in relation to the reciprocal obligation to conjugal fidelity, I see no reason why moral depravity should be tolerated in the case of the husband whilst it is rigidly and properly denounced in the case of the wife. Viewed with reference to the suffering occasioned by it, it is not less intense in the case of the woman than it is in the case of the man, though when the former is the sufferer, it is the acute suffering of an uncomplaining woman and not the violent outburst of ill-repressed anger. Viewed with regard to its historical origin, the distinction made between the husband and the wife is referable at least in part to the fact that the man is the law-maker. I am not unaware of the justification suggested by several writers that the honor of the family suffers more in the one case than in the other inasmuch as the frailty of the woman throws a cloud over the legitimacy of the children. Whatever weight might be due to this view in societies in which legitimacy is the basis on which the right of inheritance rests, it has not the same force in Malabar where the sister's son is the heir-at-law. Again, a Nayar husband who may get tired of his wife under the proposed Act may possibly form a Sambandham, and if it is not registered under the Act, the connection may not be penal if it is not formed with a woman already married under the Act. Following the Scotch Law I propose to recognize, as suggested in the Bill, adultery on either side as a just cause of divorce.

As for cruelty and desertion, they are causes recognized by the Divorce Act and illustrated by several judicial decisions. The former embraces every form of oppression which renders the discharge of matrimonial duties incompatible with due regard to personal safety. The latter includes every case of abandonment by either party, save that which ensues from mutual agreement, a point which is not material when a right of repudiation is recognized in either party subject to certain conditions.

Change of religion is under Hindu Law a cause of civil death and although under Act XXI of 1850 it entails no forfeiture of right of inheritance, the continuance of conjugal intercourse between a caste wife and an outcaste husband is impossible in practice.

Impotence and sexual incapacity are causes which need no remark. However undesirable it might be to recognize them as conditions subject to which the relation of husband and wife is to continue in a family constructed on marriage, the objection is not entitled to the same weight where the institution of marriage is engrafted on a different family system under which the wife and children have always a Taravad to fall back upon. As to unsoundness of mind and permanent incurable and infectious disease supervening after marriage, freedom from them is the basis on which a contract of marriage is generally concluded and several witnesses enumerate them as customary causes of supersession or divorce. Their non-recognition as just causes would only lead to deterioration of matrimonial purity though it would be just in such cases to impose an obligation to make a suitable provision for the party afflicted. To the causes enumerated above, I would also add transportation for life and absence for a period of seven years or more without any information as to whether the party absent is alive or dead.

18. Before quitting the subject of divorce, I desire to make a few remarks regarding the procedure to be followed under the new Act if the alternative were adopted. The machinery suggested by the Bill and borrowed from the Parsi Marriage Act consists in the creation of a special matrimonial Court and in the providing of three remedies, viz. 1. Suits for nullity of marriage, 2. Suits for judicial separation, and 3. Suits for dissolution of marriage. As already observed the majority of that class of educated Malayalis who ask for legislation object to it as novel and complicated. A special tribunal such as the District Court would alone be an appropriate tribunal to enforce an intricate system of judicial divorce. But no necessity for such tribunal would arise if a system of free divorce were substituted for it only with a right to claim compensation in certain contingencies. A District Munsif would be the cheapest and nearest functionary who might reasonably be expected in such cases to administer justice in a satisfactory manner. Nor is there adequate necessity to maintain the distinction between judicial separation and dissolution of marriage in a District where there is no religious marriage and where social usage recognizes no double remedy. As regards suits for nullity of marriage, they would lie under the general law without a specific provision not only for breach of the conditions specified in the proposed Act but also for fraud or force. I fail to see sufficient reason for devising a special system of procedure in Malabar distinct from the procedure followed in the trial of matrimonial cases under Hindu Law as administered on the Eastern Coast. There is, however, one matter which deserves special notice in connection with this part of the marriage law. It would be a great improvement if issues of fact relating to conjugal frailty were referred for trial to a local jury or Panchayat and the necessity for scandalous and demoralizing revelations in public Courts of Justice thereby averted. The ancient territorial distribution of Malabar into Nads, Desams and Taras, the divisions of leaders of the Nayar community into Naduvalis, Desavalis and the elders of the Tara, of which Mr. Logan gives a very interesting account in his District Manual, afford, though now in decay, some facilities for constituting a caste Panchayat out of the elders of the caste in each Tara who took cognizance of caste offences and preserved ancient usage from the ninth century, when Cheruman Perumal became a Mahomedan and left for Mecca, to the close of the last century, when British rule was introduced. I would introduce a provision in the proposed Act making it competent to the District Munsif to refer issues of fact in matrimonial suits to a caste Panchayat to be constituted on the application of either party to the suit or by the Court itself of its own motion and rendering its verdict final subject to the provisions of the Code of Civil Procedure relative to trials before Arbitrators. The revival of such tribunal for the trial of matrimonial suits has been suggested by a considerable number of educated Malayalis. It is however feared that the caste Panchayat may not work well and may be found wanting in judicial impartiality. But I am not without a firm belief that if it is carefully constituted and encouraged it will be accepted by the people with all its imperfections as a very appropriate subsidiary tribunal for the investigation of delicate questions of conjugal infidelity.

19. The next subject considered by the Commissioners is that of civil rights to be attached to marriage under the proposed Act. In determining their scope, I have taken into consideration not only their legal conceptions but also the Marumakkattayam usage on which the rights have to be engrafted.

20. A power of testamentary disposition over self-acquired and separate property is included among them in the Honourable Mr. Sankara Nair's Bill. The Commissioners are unanimous in thinking that the power may be conceded, but they are of opinion that it should be declared to be co-extensive with the power to alienate property by gift *inter vivos*, and that the proviso contained in the Bill should be omitted. There is a general desire for such power both in North and South Malabar, and there is no reason why a person competent to alienate property by gift *inter vivos* should not be at liberty to do the same by will. My attention has also been drawn to the case reported in I. L. R. XII Mad. 126 wherein it is pointed out that the habit of making wills has existed in Malabar from 1826 and it is urged that under similar circumstances a testamentary power has been conceded to persons governed by Hindu Law. It is further alleged that husbands are in some instances reluctant to make, by gifts *inter vivos*, a provision for their wives and children

lest in the present state of the conjugal relation, they may rejoin their Taravads, and a few cases of such desertion have also been brought to my notice. There is, however, no necessary connection between marriage and testamentary power and the Commissioners think that it is desirable to give such power whether or not a marriage is contracted under the Act, restricting it to those cases in which a power to make a gift during the testator's life exists according to the Marumakkattayam law as at present administered.

21. The second right considered is the right of the wife to be maintained by her husband. The Commissioners consider that it should be attached to marriage under the Act, except in cases in which the wife may forfeit it by her conduct or refuse to live with her husband without lawful excuse. For the purpose of formulating the cases in which the husband may refuse maintenance, Mr. Winterbotham suggested that the provisions of Section 488 of the Code of Criminal Procedure might be adopted, and this was agreed to at Calicut. I consider, however, that it is better to provide that whatever defence is available to the husband under Hindu Law in answer to the wife's claim for maintenance is available under the Act. Such a provision would be more complete than Section 488, for questions may possibly arise in connection with the wife's obligation to live with the husband as to which no rule of decision can be found in that Section. I may mention for instance cases in which the husband is suffering from leprosy or has changed his religion or renounced his caste or seeks to bring his wife into the society of a prostitute. The Malayalis are Hindus and the rule of Hindu Law on the subject is likely to prove more acceptable.

The provision as contained in the Honourable Mr. Sankara Nair's Bill is that the wife and children shall also retain their rights as members of their Taravad and shall further be entitled to claim maintenance from the husband. So far as it omits to recognize the right of the husband to refuse maintenance in certain cases, the omission may be supplied as mentioned above. So far as it reserves the wife's right as a member of her Taravad, several witnesses object to it on the ground that it enables her to claim maintenance from her Taravad whilst she is being maintained by her husband in his residence. They overlook, however, the fact that like a male Anandravan, a female is, under the Marumakkattayam usage, only entitled to be maintained in her Taravad house and that she is not at liberty to claim separate maintenance from her Karanavan unless he refuses to support her when she offers to live under his protection. The intention is to preserve to the wife her right to be maintained in the Taravad house and thereby to enable her to fall back upon it either if her husband is unable to support her, or if she cannot live with him. To avoid, however, any misconception, it may be declared that the wife is entitled to claim maintenance from her husband without prejudice to her right to be maintained by her Karanavan in her Taravad house.

22. The third right considered is that of the husband to compel his wife to live with him when she refuses to do so without lawful excuse. Here also, whatever is a lawful excuse under Hindu Law may be declared to be a lawful excuse under the proposed Act. A limitation of the right is however necessary with reference to the Marumakkattayam usage on which it is to be a graft. According to that usage, the Karanavan lives with his wife and children in his Taravad, and this is the case both in North and in South Malabar. The ground on which the practice is justified is that the Karanavan cannot afford frequently to leave his Taravad and to visit his wife in her own Taravad. Again, the Anandravan lives with his wife and children apart from his Taravad house, either when he is in the public service or when he has self-acquired property or separate income and is able to support them. This is considered to be due partly to education and enlightenment, partly to affection for the wife and children fostered by marriage, and partly to the exigencies of the public service. Such cases are, however, comparatively limited in number both in North and South Malabar. Moreover, there is a general custom in North Malabar according to which, Karanavans in respectable families deem it their moral, if not legal, duty to receive their Anandravan's wives into their Taravads and to support them, except when the Anandravans marry without their consent or do not live in harmony with them. In the three classes of cases mentioned above,

the general usage is in accordance with the right and it needs no limitation. But the majority of Anandravans in South Malabar have no separate property or income and the general belief is that the Anandravan's wife and children ought to live in their own Taravad house, that it is their proper residence according to Taravad usage, and that her husband's Karanavan is under no obligation, social or legal, to receive them into his Taravad or maintain them out of Taravad funds. But the wife's obligation to live with the husband presupposes his ability to support her and in the absence of such ability, it is not her interest that she should be compelled to quit her Taravad. Again, in this class of cases marriages are contracted on the understanding that the wife is to live in her own Taravad, and mutual consent and Taravad custom are referred to in justification of the practice. In ordinary parlance, the women in Malabar speak of their residence in their husbands' Taravads or houses as a sojourn or as a temporary visit, and the ancient Taravad notion that a woman's legitimate domicile is her own Taravad has not yet lost its hold on them. Hence it is proposed to limit the right to cases in which the husband has self-acquired property or separate income and is able to support his wife and children or his Karanavan is willing to support them in his Taravad house.

23. The fourth right considered is the right of the father to the custody and guardianship of his children. When regard is had to the incidents of a legal marriage as recognized outside Malabar, there can be no two opinions, but the Marumakkattayam law and usage are not in accord with the Honourable Mr. Sankara Nair's proposal. According to it the Karanavan is their legal guardian, wherever they may live, and the father is considered when he lives with his wife and children to be their *de facto* guardian with the Karanavan's permission. The proposal to make the father their legal guardian, even when his wife and children live in their own Taravad house and under their Karanavan's control, appears to me to be of doubtful expediency. When I consider how it is likely to work in relation to the very large number of Anandravans in South Malabar who marry without any separate income and on the understanding that their wives and children are to live in their own Taravads, it appears to me to be anomalous; and if adopted, it will bring the father into collision with the Karanavan and result in discord and litigation. I do not think that we can go beyond declaring the father to be their guardian when he is permanently living together with his wife and children and transforming in that case the present *de facto* guardianship into legal guardianship. I would, however, recognize the right of the father to be consulted regarding the education and marriage of his children though they live in their own Taravad and to apply to the Court in the event of a disagreement between him and his children's Karanavan for such directions as are most conducive to the interests of the children. I must add here that in regard to the proposed limitation of the right of guardianship, there is a difference of opinion among the Commissioners, Mr. Chandu Menon and the Raja of Parapanad agreeing with me and the others being in favor of the proposal to make the father the legal guardian in all cases in supersession of the Taravad Karanavan.

24. The fifth and the most important right discussed by the Commissioners is the right of succession in cases of intestacy mentioned in clause d of Section 34 of the Honourable Mr. Sankara Nair's Bill. It is vehemently assailed by several witnesses as an indirect attempt to break up Taravads and as a provision which introduces a double system of inheritance likely to breed strife and litigation. I may here refer to Karunakara Menon's pamphlet and reply to our interrogatories as containing a summary of all that can possibly be urged against it, and though I do not agree in all that is said by him, I still think that some of his objections are entitled to weight. In dealing with this right I must premise that I take the legitimate scope of the Commission to be to report on the expediency of introducing a marriage law as a graft on Marumakkattayam usage without unduly interfering with the customary law of inheritance. I do not desire, however, to be understood as supporting the Marumakkattayam system on economic grounds and I own that there is much to be said against it if it is to be judged on those grounds and with reference to the requirements of an enlightened modern society. An archaic system of management founded on the notion that the maternal uncle will adequately protect the interests of his nephews and nieces even when they are several degrees removed from him and that he will not yield to the tempta-

tion of neglecting them for those of his own children is no doubt contrary to human nature and cannot but be open to several serious objections. But the real question which we have to consider is whether the time has arrived either for modifying that system or introducing into the Marumakkattayam family a double law of inheritance. In this connection it must be borne in mind that the Marumakkattayam system of inheritance is not the personal law of the few who seek for a marriage law but the immemorial territorial law of a large community of which a very large majority tenaciously advocate its retention and believe either rightly or wrongly that their conventional law rests on divine ordinance. Again, even when the time arrives, the legitimate mode of breaking up the Taravad system consists in the introduction as a disintegrating factor of an individual right of partition in respect of Taravad property. In suggesting a permissive marriage law on a national or customary basis I am of opinion that we should not go beyond its legitimate scope and countenance any provision which interferes against the will of the large majority with their law of inheritance but that we should proceed on the lines upon which they would frame a marriage law, if left to themselves, to fit into their law of inheritance. On these grounds I deprecate the partial introduction into it of a new and incongruous law of inheritance.

As regards the proposal to transfer to wives and children the whole of the self-acquired and separate property in cases of intestacy, three of the Commissioners including myself think that the diversion should not exceed a half. There is considerable evidence in support of the view that it should be so limited not only in justice to the claims of legal heirs under the Taravad law but also with reference to what those who own separate property ordinarily do in disposing of it when they provide for their wives and children. The evidence shows that they generally reserve a moiety, if not more, for their sisters and nieces. The only provision that is necessary to ensure an adequate support for the wife and children in case of intestacy appears to me to consist in a declaration to the following effect, *viz.* that the wife and children shall have a right to so much of the self-acquired and separate property of the husband and father as will provide them with a suitable maintenance with due regard to what they may have received from him by gift made during his life. This provision is in accordance with what husbands and fathers would ordinarily do consistently with the claims upon them of their Taravad relations if they made a will. M. R. Ry. Râma Varma Tamburân considers it, however, desirable to fix a definite proportion of separate property as property to be allotted to wives and children, and I am prepared to go with him on the strength of the evidence before us in fixing it at a moiety provided that the right thereto is described as the right to an allotment by way of provision and regard is required to be had to property given during the deceased's life. Four out of the six Commissioners (excluding Mr. Chandu Menon and myself) are of opinion that the right should be recognized as a right of succession and that the proviso regarding property given during the husband's life should be omitted. They are further of opinion that as between the wife and the children, the former should be entitled to the usufruct during her life and that upon her death the latter should be declared entitled to divide it in equal shares. On this point I am unable to agree with the majority. A life estate and an individual right of partition are incompatible with Taravad notions and are not likely to fit well into the Taravad law and I am of opinion that it is better to declare that the wife and children should take the moiety in the same way in which they take property given by the husband or father during his life, namely as the exclusive property of their branch of the Taravad. I should state that Mr. Chandu Menon is of opinion that the provision as regards succession should altogether be omitted.

25. The next and sixth right which I would propose to include among the rights to be created by the Act is the wife's right to compel the husband to receive her into his house or Taravad and to live with and maintain her in cases in which he may compel her to do so. The two rights are in their nature reciprocal rights and if created, both the husband and the wife would have substantially what is called the right to enforce conjugal cohabitation. I need hardly add that in executing a decree for restitution of conjugal rights, the utmost the Court can do and does undertake to do is to enforce conjugal cohabitation, it being impossi-

ble for it for obvious reasons to enforce matrimonial intercourse. I must here observe that this is not one of the rights considered at Calicut, and that if it is created, the husband should be declared competent to plead in bar of such right whatever can be urged by way of defence under Hindu Law.

26. It only remains for me to state that as regards jurisdiction and trial of suits instituted under the Act and as regards execution of decrees passed in such suits, the provisions of the Code of Civil Procedure should be declared applicable.

27. The next subject to which our attention is directed by the Government of India is the effect of the proposed legislation upon the people of the neighbouring States of Cochin and Travancore as well as upon those governed by the Aliyasantana Law.

As in British Malabar, there is no legal marriage, I learn, among Nayars and Tiyars in the Cochin and the Travancore States. There is also the additional fact that the Marumakkattayam system of succession is followed by the royal families in both the States. It will, however, be observed from several of the replies to our questions received from those residing in the Native States that a section of the educated classes is in favour of a permissive marriage law. In the absence of a personal conference with or direct communication from officers specially deputed by the Maharajahs it would be premature on our part to hazard any opinion on the question whether to any and to what extent the proposed legislation is likely to be regarded by them with approval. I may here invite attention to the opinions expressed by the Dewans of Cochin and Travancore with the reservation that they are to be treated as their personal views, and from these, it will be seen that the Dewan of Travancore is disposed to support a permissive marriage law whilst the Dewan of Cochin thinks there is no necessity for such legislation and that no exception can reasonably be taken to the existing usage. There are several Taluks in South Malabar which adjoin the Cochin territory and several persons domiciled in British Malabar either own landed property in Cochin and Travancore or enter the public service there. In their case, questions may possibly arise in connection with the conflict of laws and the rule of decision adopted by the Courts in England is this, *viz.* that the forms of entering into the contract of marriage are to be regulated according to the *lex loci contractus* whilst the essentials of the contract are to depend upon the *lex domicilii* or the law of the country in which the parties are domiciled at the time of the marriage and in which their matrimonial residence is contemplated. This rule is, however, subject to the condition that in the case of domiciled British subjects, if the foreign marriage is void by the law of England, it will be regarded as invalid there though not contrary to the law of the country where it is celebrated. If this rule is adhered to by the Native States, marriages contracted under the Act between persons domiciled in British Malabar will be adequately protected, and I understand that it is applied in the case of persons governed by the Hindu Law.

There may also be marriages between a Nayar male or female domiciled in the Native States and a Nayar female or male in British territory and the marriage may be contracted under the Act in British Malabar. In such cases it should be arranged either that the domicile of the husband should be accepted as the domicile, the law of which is to determine the validity and effect of the marriage, or that such marriage should be treated as valid when either the husband or the wife is domiciled in British territory. These appear to me to be the only modes of obviating the difficulties which may arise in case the proposed marriage law is not adopted in the States of Cochin and Travancore.

As regards persons governed by the Aliyasantana law, I think that the proposed Act may be extended to them. In connection with this matter, I may refer to the letters received from Mr. Sturrock and Mr. Brodie, to the memorandum drawn up by Mr. Mundappa Bangira and to the replies from several persons subject to the Aliyasantana law.

I observe that as in British Malabar, there is a social marriage in South Canara. There is a section of the Aliyasantana community who consider its non-recognition by the Courts as a legal marriage to be a grievance, and it would seem that the number of persons who wish for a permissive marriage law there is somewhat larger than in Malabar. There is also the same necessity for legislation. In S. A. 233 of 1868 (IV. M. H. C. R. 203) the High Court remarked as follows:—"The relation of husband and wife under the Aliyasantana system is in truth not marriage but a state of concubinage into which the woman enters of her own choice and is at liberty to change when and as often as she pleases."

The observations of Mr. Brodie appear to me to be weighty and as the proposed legislation is permissive and on the basis of the existing custom, the Aliyasantana people may also be permitted to take advantage of it.

As regards the marriage customs which prevail among them, Mr. Mundappa Bangira has drawn up a Memorandum and it is scarcely necessary for me to recapitulate them. As in Malabar, there is a social and customary marriage which may be declared to be a legal marriage provided that it is valid according to the existing custom. Among the conditions subject to which it is proposed to validate the social marriage in Malabar, those which prohibit child marriage and polygamy and relate to a declaration and its registration and to divorce may be retained. In Canara, as in Malabar, there is no restriction as to marriageable age or on polygamy and there is a special custom as to prohibited degrees of relationship.

There are, however, three peculiarities in South Canara which deserve notice. There is no restriction in Canara similar to the Korapuzhai objection in Malabar nor is the doctrine of Anuloma and Pratiloma recognized there, and as it is not proposed to recognize the river objection in the new Act and as the doctrine of Anuloma and Pratiloma is proposed to be recognized not as such but as an element of custom, I see no objection to the extension of the proposed Act subject to the conditions mentioned above. In connection with divorce, the refund of the payment made by the husband at the time of the marriage called Thiridochee is customary in Canara, but a divorce by judicial process and declaration proposed in this paper is a better substitute, especially as the payment made is not substantial and varies from 2 to 5 Hons or 8 to 20 rupees. As regards re-marriage of women, however, there is one custom, which deserves special mention. It is only a widower that is permitted to marry a widow and the restriction is at variance with the Widow Marriage Act. It should be specially declared that though the person that marries a widow is not a widower, the marriage shall not be invalid on that ground.

As regards the form of re-marriage, it differs from the form sanctioned by custom for the first marriage, but no special provision is necessary in regard to it, the declaration that a marriage contracted in accordance with custom shall be valid being sufficient. All that is needed in regard to persons subject to the Aliyasantana law appears to me, therefore, to consist in inserting a separate section to the effect that the proposed Act shall apply to them also and in adding a special declaration regarding re-marriage of women as mentioned in the preceding paragraph.

28. It only remains for me to mention two principal objections to which the proposed scheme was said to be open by Mr. Winterbotham during the discussion at Calicut. Before doing so however, I may state that all the Commissioners consider that if the scheme is adopted, many are likely to prefer legal marriage to social marriage, and the former will, though gradually, become a national institution in Malabar. This appears to me to be in itself a great public benefit and no small aid to the cause of social progress and good morals. It will tend to eliminate from the Marumakkattayam social system the baneful notion seriously put forward by several persons of high social position that it is the exclusive privilege of Nambutiri Brahmins to contract a legal marriage. Having regard again to the exclusive character of the conjugal affection, the proposed Act will, on the one hand, elevate and ennoble the precarious social marriage into a legal institution, whilst the strong arm of public law will, on the other, protect the domestic circle against the incursions of irregular passions and thereby remove one cause of acute suffering in that circle and one strong temptation to the commission of crime.

29. Turning to the objections, Mr. Winterbotham considers first that the proposed scheme is not undenominational and that it differs from the scheme of legislation hitherto sanctioned by the legislature in India and evidenced by the Divorce Act, the Christian Marriage Act, the Brahmo Samaj and Parsi Marriage Acts, and similar enactments in England. It is true that the proposed scheme is denominational in the sense that it is mainly based on the marriage customs obtaining in the Marumakkattayam society, but it must be remembered that like the law of inheritance, the law of marriage is more or less conventional in every society and takes into account such of its peculiar customs as entwine themselves either with its religious sentiment or with the abiding influences exerted by its past history. In this view, the Brahmo Samaj and Parsi Marriage Acts seem to me also to be denominational and they are intended to apply only to particular communities, the former to a body of Secessionists from the Hindu religion and the latter to a community having a religion of its own. We should not overlook the fact that the marriage law administered to several classes of the non-Aryan races on the east coast is the law evidenced by their customs and that the marriage law of the Aryan section of the Hindu community itself is nothing more than its Smriti law as modified by subsequent usages recognized as immemorial. I may also observe that the Divorce Act itself is framed in regard to Christian marriages. It is by no means my intention to depreciate the high ideal of matrimonial sanctity and purity which underlies the frame of a marriage law on the English or a cosmopolitan basis, but I must add that it is not practicable in Malabar either for the present or for many years to come.

30. The next objection is that the recognition of freedom of divorce is a material defect in the proposed scheme and that it is not desirable to let every body into and out of a matrimonial union sanctioned by law. My answer is that the social condition in Malabar in regard to sexual usage leaves only a choice between a law which affords facilities for divorce whilst it checks capricious divorce, and abstention from all legislation for the present; and that as between the two alternatives, the introduction of a marriage law together with a provision restraining the abuse of freedom of divorce by recognizing a principle of compensation is preferable and conducive to social welfare. I have also to observe that whatever objection may exist against affording facilities for divorce, when matrimonial life becomes a source of misery instead of happiness, in a society in which the family is constructed on a legal marriage, it has not the same force in the Marumakkattayam society in which the wife and children have always a Taravad to fall back upon for their support. I confess that I doubt the expediency of recommending a marriage law on what is called an undenominational basis in the hope that one at least of ten thousand may take advantage of it. The orthodox section of the Marumakkattayam society forming a very large majority will regard such legislation as tending to overturn their customs and to denationalize them and as one rather to be deprecated and avoided than to be approved and followed. I have only to add that as I read the letter of the Government of India, I think we are asked to suggest legislation in a form which is practicable in Malabar if expedient, but *not* on any *à priori* basis or in a form which may be impracticable or inexpedient though it may commend itself when it is looked at from a special standpoint.

Recurring to the question of expediency, I desire, in view of its importance, to summarize once more all that can be said about it. (I). I do not think that legislation is expedient on the lines indicated by the Honourable Mr. Sankara Nair's Bill or on any *à priori* basis, which does not take into account customs founded on religious sentiment and on abiding influences due to past social history. In this opinion the Raja of Parapanad and Mr. Chandu Menon concur, whilst Mr. Winterbotham, Mr. Sankara Nair and Mr. Mundappa Bangira dissent from it. (II). All the Commissioners think that legislation in general accordance with the proposed scheme will be acceptable to those who desire to secure protection for their social marriages and pave the way for legal marriage gradually becoming general in Marumakkattayam society.

With the exception of Mr. Chandu Menon, the majority of the Commissioners consider it expedient and Mr. Chandu Menon himself recommends it if the Courts do not recognize the social marriage as legal whilst the decision of the High Court already cited with reference to marriage in Aliyasantanam society renders such recognition unlikely. Whilst at Calicut, I reserved my opinion on this point, and, after careful consideration, I attach weight to the following considerations:—

1. Though the minority that desires legislation is small, it is a growing and an educated minority and every year will add to its strength and influence.
2. The right to contract a legal marriage is personal to every one of Her Majesty's subjects and the demand for a permissive law is but reasonable.
3. It is a demand which will be repeated year after year until it is conceded.
4. Legislation on the basis indicated by imperative social customs is alone expedient when it is intended for a society as a body; and it is likely to become popular and national in proportion to the extent to which such customs and other lasting social influences are taken into account, and the proposed scheme satisfies these conditions as far as practicable.
5. It eliminates from the Bill the three main grounds of objection underlying the strong opposition it has evoked, *viz.* a statutory form of marriage which no one needs, a divorce law which is not suited to the present social condition, and a theory of succession which aims a blow at the Marumakkattayam inheritance to which the majority of the people are still attached notwithstanding all that may be said against it on economic grounds.
6. In attaching new rights the scheme takes into account the existing usage and alters in substance what are recognized as social into legal obligations.
7. It differs from the existing custom only on four points, *viz.* (1) in not recognizing child marriage; (2) in prescribing a declaration and its registration; (3) in refusing legal sanction to polygamy and (4) in proposing certain alternative provisions to check arbitrary divorce without at the same time taking away the existing freedom of divorce. As regards polygamy and child marriage, they are seldom resorted to; as regards registration of marriages, the prescribed form is conciliatory; and as regards the restriction on capricious divorce, the stability of matrimonial union demands it, at all events, when and where the freedom of divorce is abused.
8. It is an important aid to national progress and good morals. And,
9. As a permissive law, it will not force a legal marriage on those who are unwilling to contract it.

I am, therefore, inclined to concur in the opinion of the majority of the Commissioners that legislation on the lines indicated in this paper is expedient.

PRESIDENT'S SUPPLEMENTARY MEMORANDUM.

The report of which a copy has been furnished to me by Mr. Winterbotham was not before me when I drew up my Memorandum on the resolutions recorded at the meetings of the Commission at Calicut and with reference to the Minutes of Messrs. Chandu Menon and Rama Varma Tamburan. The report purports to be that of the majority of the Commission and treats my Memorandum as a minute of dissent. It, therefore, only remains for me to submit for the consideration of the Government a few remarks on the alternative scheme of legislation proposed therein.

2. It will be observed that practically the report contains the views of three out of the six Commissioners, *viz.* Messrs. Winterbotham and Mundappa Bangira and The Honourable Mr. Sankaran Nair, and I presume that the fourth, Mr. Rama Varma Tamburan, has signed it subject to the remarks contained in his minute. As, however, the opinions of all the six Commissioners are before the Government, the question whether the report in its entirety is that of three or four Commissioners seems to be immaterial.

3. The grounds which led me to the conclusion that if legislation is expedient, it is expedient only on the lines indicated by me, are fully set forth in my Memorandum. Turning to the alternative scheme, it embodies almost all the provisions of the Honourable Mr. Sankaran Nair's Bill, which it is clear from the evidence, are at variance with the marriage customs now obtaining in Malabar and are opposed not only to the feelings of the majority of the Marumakkattayam society, but also to those of the majority of that section of the educated classes who are in favour of a marriage law. It ignores caste restrictions and the customary rules of consanguinity and affinity and retains the stringent provisions as to divorce and the rule of succession to self-acquired and separate property, as contained in the Bill.

4. Before proceeding, however, to discuss the alternative scheme in detail, I think it desirable to consider whether it is practicable or expedient to adopt it as a basis for legislation.

5. The first and most prominent objection is its revolutionary character. If it were put before the Government that the Hindu Law as administered on this side of the Ghats is a relic of archaic legislation; that the law of coparcenery is, in the opinion of some, unworkable and obstructive of the development of individual industry; that the succession of distant Sapindas to the exclusion of near blood relations is opposed to natural instinct; that the total displacement of daughters by sons in the line of succession is not in consonance with parental affection; that the theory of funeral oblations and spiritual benefit on which the Hindus rely is unreasonable; that if a law framed on rational basis were substituted, it would, in the course of a few generations, become the law of the people in general; that some of the English educated men who vehemently declaim against some of the provisions of the Hindu Law may be treated as "the leaven that will leaven the whole lump"; I entertain no doubt that the Government will say, wait until the few induce the many to agree with them. In the meantime, sound policy forbids violent legislative action against the wishes of the bulk of the population, on the ground that they are "uninstructed in the English sense of the term." Yet, this, in short, is the basis on which the alternative scheme rests. The permissive character of the proposed marriage law is no justification where it alters the Marumakkattayam law of succession to self-acquired property and disturbs the domestic relation in a family corporation constituted as a Malabar Taravad is.

6. The second objection is that the scheme departs from the lines laid down by the Government of India for the guidance of the Commission. As I read their letter the expediency of legislation rests solely on the ground that the measure is either desired by the majority of the classes subject to the Marumakkattayam law, or is essential for the protection of the minority. In paragraph 59, the report says, "we do not dispute the view that the proposed legislation is not at present desired by the majority; but we also believe that the uninstructed majority will rapidly follow the lead of the enlightened classes." It proceeds to state that "the great bulk of Nayers and Tiyars are tenants of small holdings paying rack-rents and earning a scanty living by agriculture; that they are totally uninstructed on the subject of the proposed legislation; and that "the landlord and agricultural classes as a whole have little education in the English sense of the term and have that horror of innovation which characterizes most orientals." The state of popular feeling on the subject, the several classes opposed to all legislation and the section of the educated and official classes in favour of it on the basis of the existing custom are referred to in paragraph 13 of my Memorandum. I would here ask whether it is reasonable to suppose that the tenants of small holdings would follow the lead of a few educated men and not the example of the Kovilagams (families of ancient rulers), Naduvalis (representatives of local chieftains) and of the aristocracy in general of the country and of their own landlords and agricultural classes?

7. In dealing with the question whether the measure is essential for the protection of the minority, the report adopts five of the grounds stated at the close of para. 30 of my Memorandum and omits the most important ground stated therein, *viz.* that legislation intended for a society as a body is expedient only on the basis indicated by imperative social customs and is likely to become popular and national in proportion to the extent to which such customs and other lasting social influences are taken into account. I must also add that in coming to the conclusion that legislation on such basis is expedient, I was influenced by the consideration, that the opposition in North Malabar is due mainly to the obnoxious provisions of the Bill indicated in my Memorandum, and not to a belief that the customary marriage needed no protection or legal recognition. I also pointed out (para. 14 of my Memorandum) that the educated classes were divided in opinion; that their number did not exceed a thousand at the most; that about 60 per cent. of them desired legislation on the customary basis; and that the minority who were prepared to take the Bill in its present form was too small to justify legislation on its lines. The report overlooking the statements contained in this paragraph, expresses dissent from the view, that the number of persons who would accept the Bill as it stands is too small to render legislation on its lines expedient. I have again referred to the recorded evidence and find that not more than a dozen out of 121 witnesses orally examined, state that they would take the Bill as it stands. Several of them object to some of the provisions embodied in the scheme and state that their acceptance is only provisional on legislation on the customary basis being refused. I have also referred to the replies to our interrogatories from 322 persons and find that not more than forty agree to the conditions of the Bill, which the alternative scheme retains. I would pause here and ask whose lead it is expected the uninstructed majority will follow? Is it the lead of the fifty persons willing to accept the scheme in its present form or of the 40 per cent. of the English educated men who are against all legislation or the 60 per cent. who would only accept legislation substantially on the customary basis? Again, I find among the educated minority who object to those provisions of the alternative scheme which are at variance with the custom of the country, a number of High Court Vakils, First Grade Pleaders, District Munsifs, as also the Nayar Sub-Judge of Tellicherry and the Nayar High Court Judge of Travancore, and a number of intelligent men both in British Malabar and in Travancore and Cochin. May I ask whether it is the lead of these gentlemen or of the educated men (about 50 according to evidence) that the uninstructed majority will follow? I fail to see how on the evidence before us the alternative scheme can be regarded either as acceptable to the majority or as essential for the protection of the minority.

8. The report states (para. 59) that the proposed law, if introduced, will not remain a dead letter, and in support of this position refers to the fact that "many of the strongest oppo-

nents" of the proposed legislation have expressed "a lively dread of its speedy acceptance by a large proportion of the people." Extracts are given from the evidence of two witnesses (56 and 119). Here I would simply observe that I do not understand the intention of the Government to be that an obnoxious law should be forced upon the people in anticipation of its being accepted by them in future. It is in my opinion clearly unsafe to disregard the popular feeling as evinced by the mass of the evidence recorded by the Commission, upon the strength of statements made by some of the opponents of the proposed measure, in which, in their anxiety to avoid it, they exaggerate what they conceive to be the ill effect likely to ensue from it.

9. Passing on to the form of legislation, I do not think that the Government desire to improve the national morality by aggressive legislation. The first difficulty we had to face related to the form of marriage prescribed in the Bill. It is discussed in para. 16—I of my Memorandum and in para. 67 of the report. In the latter it is stated that the Commissioners who have signed it do not in the least regard the acceptance of the procedure suggested by me as a *sine qua non*. I must here observe, that no one that desires legislation needs a statutory form, or has scruples about going through the customary form, and that the introduction of the former is liable to be misconstrued as casting a slur on the conventional usage and as treating a solemn event as a business matter. A statutory form is of itself open to no objection, but the question is whether it is either needed by, or acceptable to, the people for whom it is intended.

10. The next question we had to consider was how to meet the difficulty arising from caste restrictions on marriage. This question is discussed in para. 16—II and III of my Memorandum and in paras. 68-70 of the report. In the latter a solution is suggested in these terms: "We would not, however, underestimate the difficulty. It is a fact that in numerous cases the parties to a marriage contracted in defiance of caste rules could not enter a Taravad house without (in native opinion) polluting the whole family and rendering every member of it liable to boycotting and ex-communication. It is just and necessary to protect the Taravad from such consequences, and we would therefore provide that, if the difference in caste between the parties to a marriage be such that social usage condemns them to excommunication, the party so condemned shall lose his or her right of entry into, or residence in the Taravad house, and that the man should lose his right of succession to the office of Karanavan". This suggestion virtually annexes a penalty to violation of caste usage, and to this extent it amounts to a departure from the principle of neutrality invariably adhered to by the British Government and a retrogression from the policy of Act XXI of 1850. It is moreover in direct conflict with paragraph 16 of the report where, assuming, contrary to the bulk of the evidence, that caste restrictions are disapproved by the Nayers themselves, it proceeds to say that "it is highly necessary to guard, in any legislation that may be contemplated, against perpetuating such restrictions on marriage." As pointed out in my Memorandum, caste is a *quasi* religious institution, and any legislation validating marriages in contravention of caste rules will be regarded as an interference with their religious usage.

11. In this connection I may point out that the remark in paragraph 63 of the report is based on a misapprehension. The principles on which the caste difficulty should, in my opinion, be met in legalising customary marriages are explained in para. 16—II and III of my Memorandum. In advertence to the doctrine of neutrality I stated that such restrictions should be tolerated in the same way as they are in the case of marriages contracted on this side of the Ghats so far only as they are referable to the rules of Hindu law. I stated also, that the society should be free to alter its customs with reference to the requirements of progress, and that this object might be effectually secured by inserting the words "for the time being" and thereby imposing an obligation on the Courts to recognize the custom actually existing at the time of marriage. That there was a decision at some former time recognizing a different custom could not, as stated in the report, preclude the recognition by the Courts of a subsequent modification of that custom. I may here quote Sir Fitz James Stephen's observations on the Brahmo Marriage Bill, to which

Mr. Chandu Menon refers, *viz.* "The native laws should not be changed by direct legislation except in extreme cases, though they may and ought to be moulded by the Courts of Justice so as to suit them to the changing circumstances of society. If this principle is fully grasped, it will, I think, serve as the key to nearly every question, which can be raised regarding the alteration of native laws."

12. The next point on which the report dissents from my view is as to maintaining the customary restrictions on marriage on the score of consanguinity or affinity. In para. 71, the report justifies the Bill on the ground that the limitation therein contained has already been approved by the Government. If it is intended to refer to the Brahmo Marriage Act of 1872, it must be borne in mind, that that Act requires a declaration from the parties to the marriage, that they do not profess the Hindu religion, whereas the proposed legislation concerns those who profess that religion. Here I may ask whether any Marumakkattayam Hindu would declare that he does not profess the Hindu religion. Again, I would draw attention to the remarks contained in paras. 28-30 of my Memorandum. Another reason assigned is, that the Nayers and Tiyars do not maintain ancestral trees and that it is difficult therefore to prove relationship beyond the fifth degree; but it must be observed that the family tradition kept alive by the observance of pollution on the occasion of every birth and death is relied on by the people as adequately supplying the want of family trees. According to the alternative scheme, if a Taravad consists of members related to each other beyond the fifth degree, a marriage between them would be legal. It seems to me extremely undesirable to interfere with the custom in a matter like this; the marriage between parties descended from the same female ancestor being considered to be incestuous and to entail loss of caste.

13. I may here point out that, in regard to both caste restrictions and those founded on consanguinity and affinity, the alternative scheme differs from the Bill submitted in 1884 by the Committee consisting of Raja Sir T. Madhava Row and Messrs. Logan, Wigram, Sankaran Nair and Karunakara Menon. Section 4, Clause 4, of that Bill is in these terms:—"The relation of the parties must not be such in respect of consanguinity, affinity or otherwise that, according to any recognized custom, a marriage between them would be improper." To illustrate the popular feeling on the subject I may, apart from the bulk of the evidence before us, refer to the minutes of my colleagues, Messrs. Chandu Menon and Rama Varma Tamburan, and the remarks of the Sub-Judge of Tellicherry and the High Court Judge of Travancore.

14. The provisions relating to divorce are discussed in para. 16—VII and paras. 17 and 18 of my Memorandum, and in paras. 72-74 of the report. The ground on which my proposals rest is not, as stated in the report, that I consider the marriage to be a mere civil contract and as such dissoluble at will, but that a highly elaborated system of judicial divorce is ill-suited to the Marumakkattayam society just emerging from polyandry. The report states that whatever restrictions on divorce the Government may deem indispensable in the interests of morality, the educated Malayalis will still beg for the legalisation of marriage. Having regard to the evidence before us, I am unable to concur in this opinion. The alternative scheme appears to be open to the remark that a divorce law which, it is assumed, will generally be availed of two or three generations hence, is premature, and that the minority whose example is expected to influence the general Marumakkattayam population is, as already stated, infinitesimal. I have, moreover, only to refer to paras. 29 and 30 of my Memorandum where I have considered the objections taken in the report. I still consider that where, as the report says, the standard of morality is low and the institution of marriage is in a state of infancy, my proposal to regulate divorce by judicial process and by the annexing of a penalty to abuse of the right of free divorce, would be the first instalment of reform. The reform, whilst it is practicable, would be an undoubted improvement on the existing state of things and would elevate the tone of sexual relation. It would also be susceptible of further development by paving the way for nationalizing marriage as a legal institution.

15. The next point of difference is that which relates to the right of succession to self-acquired property in cases of intestacy, which under the Marumakkattayam law as at present

administered, vests in the Taravad ; the alternative scheme transfers it in whole to wife and children. This question is discussed in para. 24 of my Memorandum and paras. 76-78 of the report. In the latter it is stated, that a double system of inheritance prevails elsewhere, and that, though it may be incongruous, the incongruity does not occasion any insurmountable difficulty. The real question, however, is not whether there is any insurmountable difficulty, but, whether it is expedient to introduce it by legislation. Again, it is suggested (para. 77) that the eager and unanimous demand for testamentary power betokens a general dissatisfaction with the existing law of intestate succession, implying thereby that there is a general desire to give away the whole of the self-acquired property to wife and children. This inference is not warranted by the evidence. According to the evidence before the Commission, many desire to give, and, when they make gifts *inter vivos*, do give, a portion only, and but a few give away the whole to their wives and children. It is true that the majority are not satisfied with the law of intestate succession to self-acquired property as now administered ; but the general belief disclosed by the evidence is, that this law is founded on an erroneous decision of the High Court, reported in II. M. H. C. R. 162. That decision is, it is considered, based on a mistaken view of the custom of the country, according to which the acquirer's Taivali relations, i. e. his brothers, sisters and sisters' children, are entitled to succeed in preference to the more distant members of the Taravad. It is the desire to restore the previous custom which, together with the ground mentioned in para. 20 of my Memorandum, accounts for the demand for testamentary power.

16. As regards the remark that the division into half and half is an unsatisfactory compromise, I have only to observe, that, where there are conflicting claims upon the bounty of the acquirer, viz. those of the wife and children on the one part, and of sisters and their children on the other, the best solution is a compromise based on the practice of those who make gifts *inter vivos*. If the self-acquired property is either too small, or in excess of what is required, for an adequate provision for wife and children, the inequality will be corrected by the acquirer himself by the exercise of his testamentary power. The real issue is whether it is the practice generally followed or the desire of a few that ought to be accepted as a guide in framing a law for the disposition of property in cases of intestacy. It must also be observed that in a society constituted as the Marumakkattayam society is, the affection for one's sisters and sisters' children is much stronger than it is elsewhere, and this makes the practice as regards the reservation of a portion of self-acquired property for them intelligible.

17. As for the religious objection considered in para. 79 of the report, it cannot be denied that the Marumakkattayam system is regarded by the masses as resting on divine ordinance and that any interference therewith against the wishes of the majority is liable to be regarded as an interference with their religious belief. It can, likewise, not be denied that the Marumakkattayam system imposes the obligation to offer funeral oblations on the sister's son and not on the son. The religious objection, therefore, urged by Mr. Karunakara Menon is entitled to weight to this extent, viz. that where there is no Taravad property, the alternative scheme would give the whole of the self-acquired property to the son, while "the key to salvation" is with the sister's son. From a strictly legal point of view, however, the religious obligation and the right of succession are correlatives as regards Taravad property only, the self-acquired property being at the absolute disposal of the acquirer during life. I may also mention that even where there is neither Taravad nor self-acquired property the obligation to perform funeral rites is peremptory and neglect to perform them would entail forfeiture of caste. Therefore, although, in strict law, this obligation is independent of inheritance, yet policy requires, that a legislative provision which would take away the means whereby the sister's son is enabled to discharge his religious duty should be guarded against. It is true, as stated by Mr. Krishna Menon, a retired Sub-Judge, that, when Sri Parasurama introduced the Marumakkattayam system, owing to the absence of the institution of marriage, it was not known who the father was, and this probably was the reason why the obligation was imposed on the nephew ; but the ex-Sub-Judge's suggestion that, when the marriage Act is passed and paternity rendered certain, the obligation would, under the ordinary Hindu Law, devolve on the son, is not tenable. It is not likely that his dictum,

and the texts quoted by him will be accepted by the people as sufficient to displace an ordinance of Parasurama in special reference to the Marumakkattayam system.

18. It only remains for me to notice the two side issues with which the question of legislation is complicated in the report. The first is, whether the Marumakkattayam system is good or bad, and whether a marriage law should or should not be so framed as to bring about its gradual decay and ultimate extinction. The report deals at length with this question; but the instructions of the Government, as I understand them, do not require the Commission to go into it. Assuming, however, that the Commission is at liberty to go into it, and assuming also that it is desirable on economic grounds to break up the Marumakkattayam system, the fact that the great bulk of the people concerned are, as the evidence shows, anxious to maintain it, renders any legislation in that direction inexpedient. I would here refer to para. 24 of my Memorandum. If the system is, as the report takes it so unworkable, how is it that a very large majority of the Marumakkattayam classes base their objection to the Honourable Mr. Sankaran Nair's Bill on the ground that it tends to destroy it? I may point out that the opposition is the strongest in North Malabar where, as the report says, the natural feeling in favour of wife and children "has become strongly developed. The effect of the evidence, as summarised in the concluding part of the above quoted para. of the report is that those who are in favour of legislation desire a marriage law to merely legalize what is already the prevailing custom; whereas the Bill, as well as the alternative scheme, overrides the custom and aims a death-blow at the Marumakkattayam system. The Devan of Cochin opposes all legislation on the ground that it would be ruinous to the Taravad system. The Devan of Travancore, whilst approving of the proposal to introduce a marriage law, expresses the opinion that it should not be such as "would sap the foundations of the Marumakkattayam system". The Nayar Sub-Judge of Tellicherry (Mr. Gopalan Nayar), adverting to the provision regarding succession to self-acquired property, says:—"I would certainly object to Section 34, clause (d) of the Bill as it would be virtually interfering with the Marumakkattayam law of inheritance, which the majority of the people do not as yet want to set aside. As I learn from the Honourable Mr. Sankaran Nair's speech in the Council when introducing the Bill, his object is to provide for such of the Marumakkattayam Hindus as wish it a form of marriage which the law will recognize; and so far I am with him; but I do not see why with a view of merely attaining this object we should startle the people of Malabar with innovations on their property law which the majority do not as yet want and which the exigencies of the case do not demand". The Nayar High Court Judge of Travancore (Mr. Kunhi Raman Nayar) writes:—"The proposed (d) as to succession deals, though indirectly, a death-blow to the Marumakkattayam system of inheritance. If the Taravad is not to get a portion of the self-acquisition of its members, the Marumakkattayam Taravad system cannot be properly worked or maintained according to the intention of its founders. That system has endured for ages, and the Taravad is the best extant type of the primitive Hindu undivided family, whose cherished idea is to work for the good of the whole and not for the individual benefit alone; it has conferred domestic happiness in past ages on a large proportion of the inhabitants of the west Coast, and it is not proposed to do away with the system altogether; if so, the soundness of the proposal (d) is open to question. In my opinion all that the State ought to do at present to satisfy the requirements of the progress of the Malabar society, is to declare marriages under the present system valid for the purpose of bringing the sinners against morality under the clutches of penal law, and to confer upon the wife and children a claim for maintenance out of the husband's self-acquisition, should he die without making due provision for them".

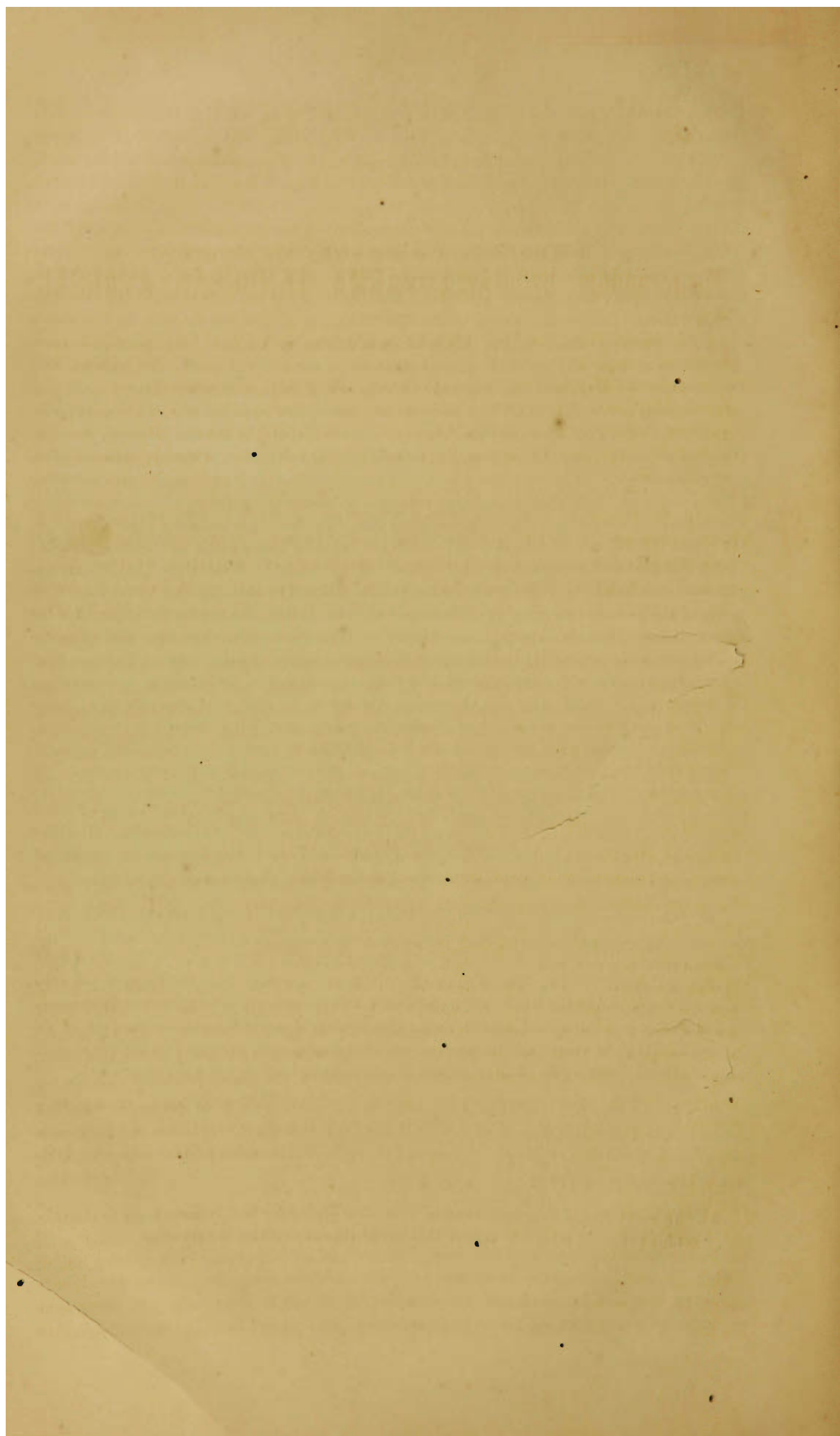
19. The second side issue raised is as to the theory of the Marumakkattayam system of sexual relation. This is discussed in paras. 30-50 of the report. That the 'Talikkattu Kaliyanam' is only a preliminary caste rite and not a marriage, is a fact as to which there is no difference of opinion. That prior to the introduction of 'Podamuri' and other species of Sambandham (forms of individual marriage), the sexual relation was of a fugitive character and that there was no marriage in the proper sense of the term, is also not denied. But the question is not as to the primitive theory of sexual relation, but as to whether, as stated by the Honourable Mr. Sankaran Nair, when asking for leave to introduce

his Bill, there is at present a marriage in practice, and, if so, whether the customs relating thereto are such as would furnish a basis for legislation. As I read the report, this position does not seem to be disputed; for referring to the Marumakkattayam Hindus, the report states (para. 48) that "they are all or nearly all of them better than their custom, and the majority (as we are told and believe) cleave to one woman for life." Again, referring to the ancient notion, that chastity was not a virtue prescribed for Nayar women, and that "they were specially created for the Nambutiri bachelors to play with," the report adds that "Nayars will not submit to this teaching much longer." The very same evidence, from which the above conclusions are drawn, associates the improvement in the relation of the sexes with Podamuri and other species of Sambandham. It is clear, then, that in the course of social progress the majority of the Marumakkattayam Hindus have engrafted forms of marriage on their ancient practice, that these forms are resorted to as overt acts whereby the intention to marry is manifested, and that the sexual relation thus constituted in the majority of cases endures for life. This being so, the point for consideration seems to be, whether it is legislation on the customary basis or on the basis of the Brahmo Marriage Act (the so-called undenominational Law) that will, by enlisting the sympathies of the people, more effectually help on social progress. The report, however, overlooking this consideration mixes up notions of the ancient polyandry with the present social marriage customs, and does not discriminate between a legal marriage and a social marriage. Further, by introducing other side issues, the report throws a cloud over the relations of the sexes as it now exists and states (para. 50) that "Marumakkattayam was and still is destitute of the institution of marriage." If the marriage customs are so bad as to render the sexual relation sanctioned by them nothing better than what it was in the primitive stages of the Marumakkattayam society, how are we to account for the admitted improvement in its moral tone, and how can legislation on the rigid lines of the alternative scheme be recommended? Our colleague, Mr. Chandu Menon, in his interesting Memorandum, describes the marriage customs in detail, and they are accepted in the report as accurate. But the report states (para. 43) that, because a Nambutiri Brahmin who goes through 'Podamuri' does not consider it a marriage binding upon him, therefore it cannot be regarded as marriage in any other case. A Brahmin may not look upon any marriage other than Vedic as binding upon him; but it is no sufficient reason for concluding that as between Nayars, it is not regarded as binding either. On the other hand, that the Nambutiri Brahmins themselves are compelled to go through the same formalities of wedding proves that, owing to social progress, the Nayar women insist on giving the union the character of a marriage. However this may be, legislation with a provision for a declaration and its registration as suggested by me, would make such marriages with even Nambutiri Brahmins binding.

20. Our colleague, Mr. Chandu Menon, himself a highly educated and representative Malayali, whose opinion may be taken as reflecting the sentiments of a pretty large section of the educated classes, draws attention to the following observations of a member of the Vice-regal Legislative Council:—"Laws relating to such subjects as marriage have their root in the very deepest feelings and in the whole history of a nation; nor is it easy to imagine a more tyrannical and a more presumptuous abuse of superior force than that which would be involved in an attempt to bring the views and practices of one nation upon such subjects into harmony with those of other nations whose institutions and character have been cast in a different mould".

21. I must here add that when I expressed an opinion generally in favour of the Bill framed by the Committee appointed in 1884, I had not before me the evidence which I now have as to the provisions relating to divorce and the right of succession of the wife and children to self-acquired property.

22. In conclusion, I have only to state that after giving my best consideration to the subject, I cannot persuade myself to believe that the alternative scheme is expedient.



Memorandum by RAMA VARMA TAMBURAN AVARGAL

OF PARAPPANAD,

Member of the Malabar Marriage Commission.

As a member of the Special Commission appointed by Government to provide evidence as to the customs in connection with the Marumakkathâyam Hindu marriages in Malabar, and whether the proposed changes in the Draft Bill prepared by the Honorable Mr. C. Sankaran Nayar are desired by the majority of the Malayâlis following Marumakkathâyam system of inheritance, or are essential for the protection of the minority, and to express an opinion regarding the expediency or otherwise of the Bill, and if expedient as to what form it should take, taking at the same time into consideration the effect of the legislation upon the people of Travancore and Cochin, and also upon those governed by the Aliya Santana law, I now lay before the Government my own individual views on all the points on which the Government requires information. The evidence we have collected forms part of the records in connection with this enquiry.

The customs connected with Marumakkathâyam marriages in Malabar are 'Sambandham', 'Pudamuri', 'Vîdâram Kairâl', 'Uzhamporukkuga', 'Mangalam', 'Kidakkora', and 'Pariyam Chêyga.' These are the seven forms of marriages obtaining in Malabar. As Taluks differ, so do the forms of marriage. In some Taluks there are two or three forms of marriage. In the same form of marriage the ceremonies observed, and the formalities gone through, vary as amsams or dêsams do. In some places in Malabar there is no form of marriage even in its simplest sense. Men and women simply pair-off according to fancy. The ideas and feelings which give marriage its sanctity are foreign to all the above-mentioned seven forms of marriages. These marriages theoretically speaking can be dissolved at the will of the parties, though practically in many cases the union lasts for life. The essential element is the same in all these forms of marriages. The husband-elect, with some of his friends, goes to the bride's house at night on the day fixed, and there, after partaking of the feast prepared for him, consummates the marriage. So far as I have been able to ascertain there is nothing to show that these marriages have any connection whatever with the religious observances of the people, but I must repeat here what I said in connection with another then contemplated legislation :—"There is no question which the Hindus, the orthodox portion of them, cannot by a twist or two connect with their religion which prescribes rules for every-day life in its minutest details,—When the Hindu must rise, when he must wash his face, when he must bathe, when he must take his food, and when he must go to sleep, &c.,—but in my opinion public morality

and the *true* interests of the general community, which in no way clash with the Hindu religion in its simple and pure form, must, in the eye of the Government, be above all other considerations." Marriage is the origin of all relations, and of some of the most important rights and duties; any proposal on the part of the educated Malayâlis to make it binding and sacred, and confine the relation to one man and one woman, making it at the same time indissoluble at will by either party, seems to me to be quite reasonable.

It is my decided opinion that the proposed changes with certain modifications are desired by the great majority of the educated, intelligent and thoughtful portion of the Malayâli community following the Marumakkathâyam law. Desired about eight years ago by some intelligent and educated Malayâlis, then and now in high official position, to give out my views on the questions of Malabar marriage and descent of property through females, I wrote a paper embodying my views on these two questions. This paper appeared as a leading article in the *Madras Times*. I will now quote here a portion of that article :

"Malabar is to this day known to Europeans, and other foreigners, as a narrow piece of land intervening between the Western Ghâts and the sea-board, physically so situated as to give no access to the eyes of civilisation. The inhabitants of this strip of low land are known to remain apart from the civilisation of other parts of India, and to retain social customs which mark a much ruder stage of human advancement than Hinduism, and which in other parts of India only lingers among isolated hill tribes." Of these social customs the one that has struck Europeans as most curious is the custom of relationship through females. This custom is defended on the ground that "the descent can be proved from the mother, while it is often impossible to know the paternity of the child," a precaution showing that no confidence can be reposed upon female virtue. That a man's property descends to the children of his sister to the exclusion of his own, for whose existence he is chiefly responsible, looks remarkably peculiar. This absurd custom, which has done most to perpetuate the poverty of Malabar, has strangely been so acted upon in the teeth of facts, proving it to be a relic of early barbarism. The degree of affection determining the nearness of relationship always regulates the law of succession, preference being given to the descending line over the ascending. But in Malabar this degree of affection, or of relationship, has nothing to do in deciding to whom a man's property after his decease should go. The tie of consanguinity determines the succession. The grounds on which the disposal of property by inheritance in Malabar exists seem to me to be any thing but just. In ninety-nine cases out of a hundred a man exerts himself to acquire a fortune chiefly to make a pecuniary provision for those whom he was mainly instrumental in bringing into the world, not certainly for those who can plead no valid moral claim upon his protection. No parent can feel happy in this world unless he sees his children are provided with such education and means as would enable them to start with a fair chance of successfully accomplishing life's journey. Every parent considers it his chief duty to see how much he has done to help his children. But in Malabar parents are under no such binding obligations. Here the uncle, the mother's brother, who is practically the head of his sister's family shall place his nephews at school, and also extend to them such support as can be naturally expected from one whose impulses of

natural affection are not half so warm as those of the father. What I have just stated is the rule and this rule like all other rules has its exceptions. True we find here and there a father taking upon himself the duty of training and supporting a child, but one should not forget that it is optional to the father to exert himself in the interests of his child who is another man's property. The Malabar system of inheritance is a mystery to Europeans. I have said that the Marumakkathâyam law has done more than anything else to perpetuate the poverty of Malabar. What I mean is this. Persons have less inducements to labour under this custom than under what prevails in other parts of India. It is labour which puts the greatest part of the value upon land, without which it would be scarcely worth anything. It is a fact, which no one will dispute, that Malabar has been favoured with natural advantages such as few parts of India can boast of, but the motives which lead to the proper use of these advantages are few. The opinion is gaining ground among great thinkers who have attempted to investigate the Malabar system of inheritance, which they call a relic of ancient barbarism, that it has its origin in the early institution of communal marriage. It has been proved beyond the possibility of doubt that man in his primitive condition has no idea of marriage as it is now understood among civilised races. Among races in the lowest stage of civilisation a communal marriage system prevailed under which "all the men and women in a small community were regarded as equally married to one another." In a community so constituted, no one knew his father and no father knew his son; but the tie between the mother and the child and the brother and his sister is perceptible.

The educated portion of the Malayâli community think of making their 'Tâli-kettu' ceremony a binding marriage ceremony. The 'Tali-kettu' now is no marriage in itself. It creates among the Nayers no relation as husband and wife. It is a preliminary purifying ceremony analogous to 'Samâvartanam' in point of capacitating to marry. I believe the proposed changes are almost indispensable for the protection of the minority even if the majority is not in favour of them. The minority simply asks for a permissive law. All the Government has to consider is if it will in any way interfere with the rights and interests of the majority. In my opinion the proposed law can be so modified as if passed, not to interfere either with the one or the other as I will explain by-and-by.

The proposed marriage legislation, as it is now framed, is not certainly expedient as has been admitted by the Hon. Mr. C. Sankaran Nayar himself after the enquiry.

I will state here what form the proposed marriage legislation should take in order to make it an expedient legislation which will protect the minority without seriously interfering with the rights and interests of the now opposing majority. The Commissioners are unanimous in their opinion that the majority of the people in Malabar desires no change.

All legal marriages should be essentially monogamic, and the union they contemplate be life-long. At the time of marriage the man must have completed the age of sixteen years and the woman the age of twelve. In case either party has not completed the required age they must obtain the consent of their legal guardians to the marriage. The position of the parties should not be such in

respect of consanguinity, affinity and caste that according to the custom then obtaining a marriage between them should be improper. I am not very particular as to the form of marriage that ought to be legalised. There are seven customary marriages as shown above. Any one of these, or the 'Tâli-kettu' ceremony, can be legalised. The 'Tâli-kettu' ceremony is not now a marriage in itself, but a preliminary purifying ceremony analogous to 'Samâvartanam' ceremony in the case of males creating a competency to marry.

I am certainly in favour of parties appearing before a Registrar or Sub-Registrar, and in his presence solemnising and signing a declaration such as is referred to in Section 14 of the proposed Bill. Here we have many safeguards against fraud, but there is difficulty in solemnising marriages in this way. Our girls, naturally very shy, will be reluctant to appear before the Marriage Registrar and sign the declaration. Ninety-nine out of 100 witnesses were against solemnising marriages in this way. I made a proposal before the Commission. That proposal was that the marriages be solemnised before a "Caste Panchayat" and a declaration in duplicate written on special Forms purchased from the stamp-vendors be signed, having always as one of the witnesses the Village Munsiff to whose presence the girl may not object, as he will, as it almost always happens, be a man of her own amsam, not quite a stranger to her. I have no objection to the Registration Scheme sketched out by our President.

Now I come to the divorce question, the most important and difficult of all questions in connection with marriage. But for considerations of the welfare of the offspring, I would have been for natural bond against legal bond, for union by affection against that by law. All arbitrary divorces should be disallowed. While I am to support the life-long permanence of marriage, I entertain grave doubts as to the desirability of parties appearing in a Court of Justice, and there washing their dirty linen before the public and thereby defiling the moral purity of the general community. I do not object to stringent judicial circumspection regulating divorce, but to giving wide publicity to private immoralities. I admit such publicity may have a wholesome effect on the thoughtful few, but I cannot forget the fact that it demoralises the unthinking many. It is my decided opinion that the divorce Courts are productive of more evil and of less good. I believe the day may not be distant on which even the European nation will recognise this fact. If divorce has many disadvantages, it has (after marriage has proved utter failure) advantages more than counterbalancing the sentimental disadvantages. My proposal is that if the husband and wife, feeling their then married life unhappy with no chance of their ever pulling well with each other, desire to dissolve marriage, they must apply to the same Village Panchâyat before which he signed the declaration of marriage, to hear their grievances and decide on the merits of the case. I have no objection to a Judge hearing the case in his private room where reporters and the general public should have no access on any excuse.

I am against the parties being imprisoned for disobeying the decree for restitution of conjugal rights. Some fine will serve the purpose intended.

The husband shall be *ipso facto* the legal guardian of his wife and children so long as they live with him in his house; but in their Tarawâd house, the Kâranavan

shall be the guardian. The wife and children remaining in their Tarawâd house cannot claim maintenance from the husband. They, when living with the husband in his house, cannot claim maintenance from the Kâranavan. By-the-bye I must express here that to those accustomed to see true family life with a father, wife and children, the Malabar Tarawâd headed by a very old Kâranavan and composed of members most distantly related to each other and with half brothers and half sisters, would appear an extremely strange and heterogeneous mixture. Compared with those Tarawâds the Eastern harems can be said with some propriety to be homogeneous. The Bill makes an attempt to remove all the existing caste, consanguinity and affinity restrictions. That shall never be tolerated. I wonder how the Hon. Mr. Sankaran Nayar, himself a Hindu Malayâli, thought that such attempt would not be strongly opposed. All these restrictions should remain as they are now. Only such marriages as are permitted by custom shall be legalised. There is no custom of a Nayar marrying a Tîyan girl and *vice versa*. Marriage between parties who have birth and death pollution is considered as incestuous. The very idea of such marriage is shocking. There is no marriage now between a North Malabar Nayar woman and a South Malabar Nayar. Such marriage was prohibited when Malabar was under different rulers always in conflict one with the other, on consideration of political expediency. As those grounds do not exist now, I do not understand why these prohibitions should also not die out with them. Before concluding this subject I must observe that in spite of a thousand and one levelling influences of modern civilisation, the system of caste is still as strong as it ever was. To destroy it in one day is beyond the range of possibility. It may, and must, die a natural death. Only the other day some of the respectable Tiyans in Calicut presented me an address in which the caste system was alluded to in the following words :—

“It is superfluous to say that as a community we have even in this century of progress, made no progress worthy of that name in spite of the levelling influences of the British Government, and that our movements are necessarily hampered by the immutability of conventional distinctions of caste, more remarkable in Malabar than elsewhere.” To this I replied thus : “You call yourselves the darkened section of the community.” I do not think so, but I know it would have made more progress had it not been for “the immutability of conventional distinction of caste” to which you allude in your address. I admit our caste system as it divides the community into classes with no hope of general sympathetic co-operation for the well-being of the community at large, impedes the progress of the Hindus; but I very much doubt if the time has come, or will come within a reasonably distant date, to find men to undertake the task of abolishing it altogether, as it has been so cleverly interwoven with the very fundamentals of the Hindu faith.”

If the husband die intestate one-half of his self-acquisition, which must be his exclusive individual property, should go to his wife and children and the other half to his Tâvazhi or Tarawâd. I would have been for giving the whole of one's self-acquisition to his wife and children but for the consideration that among the Marumakkathâyam Hindus the funeral rites and ceremonies are invariably performed not by the sons, as among the Makkathâyam Hindus, but by the nephews. The sons may if they like perform these ceremonies, but they are not bound to perform them; but that is not the case with nephews. They must perform. If they fail to perform the ceremonies they can have no intercourse thereafter with

their own caste people. An arrangement by which the nephews are to perform the funeral rites and ceremonies and to make all the necessary expenses incidental to their proper performance, and the sons are to take possession of all the property left behind by the deceased, is not justifiable. Pleasures all on one side and pains all on the other side is not an equitable arrangement. One should be quite at liberty to dispose of one's separate or self-acquired property by Will, but with the restriction that his children should not be without means to live upon. It is very doubtful whether he is bound to make sufficient provision for his wife also.

To the question what will be the effect of the proposed legislation upon the people of Travancore and Cochin, my answer is that it will have very little,—not much worth mentioning. I have not much experience in Cochin, but I am a Travancorean, born and bred there. Malabar is only my adopted country, though I have made it now the place of my permanent residence. I still go to Travancore once a year and make a pretty long stay there. My family has long been connected by marriage with the Travancore Royal family. All the other members of my family are still in Travancore. I have had enough opportunities to discuss with many people the Malabar custom prevailing in “Kêralam”, a name given to Travancore, Cochin, and Malabar jointly. All the English-educated men are dissatisfied by the present not very satisfactory state of their marriage custom. I am almost certain that if a law legalising marriages in Malabar be passed to-day, not long after a similar law will be passed also in Travancore. In a paper by the Rev. S. Mateer, who has more than thirty years' experience in Travancore and who “wholly occupied in vernacular labours amongst the natives”, moves freely with them both high and low, read the other day at the general meeting of the Athropological Society of Bombay an address printed in the *Times of India* of Bombay where I read the following:—

“Educated Nayers begin to be ashamed of the absence of real marriage amongst them, and grieved at the social evils springing from the system. Perhaps the principal hardship is felt to be that a man's own acquisition, as well as ancestral property, goes to his nephews on his death, and only while alive can he bestow it by free gift on his sons, or make provision for his wife. It is to right-thinking men a sore humiliation also that Nayar women are open to free-love connection with Brahmans and other high castes. The publicity given now-a-days to their peculiar usages, and the ridicule of other castes who enjoy the benefits of fixed marriage laws, naturally mortify them. They have therefore formed sundry Associations, especially the Malayâla Sabha, seeking the removal of disabilities and impediments to social progress and aiding the education of their people. They are applying to the British India Government and to that of Travancore for legislation providing a form of permanent marriage instead of the present casual union, and inheritance to children for those desirous of availing themselves of these advantages.” My own experience has enabled me to think exactly as the writer thinks.

CHANGANASARY, TRAVANCORE, }
22nd August 1891. }

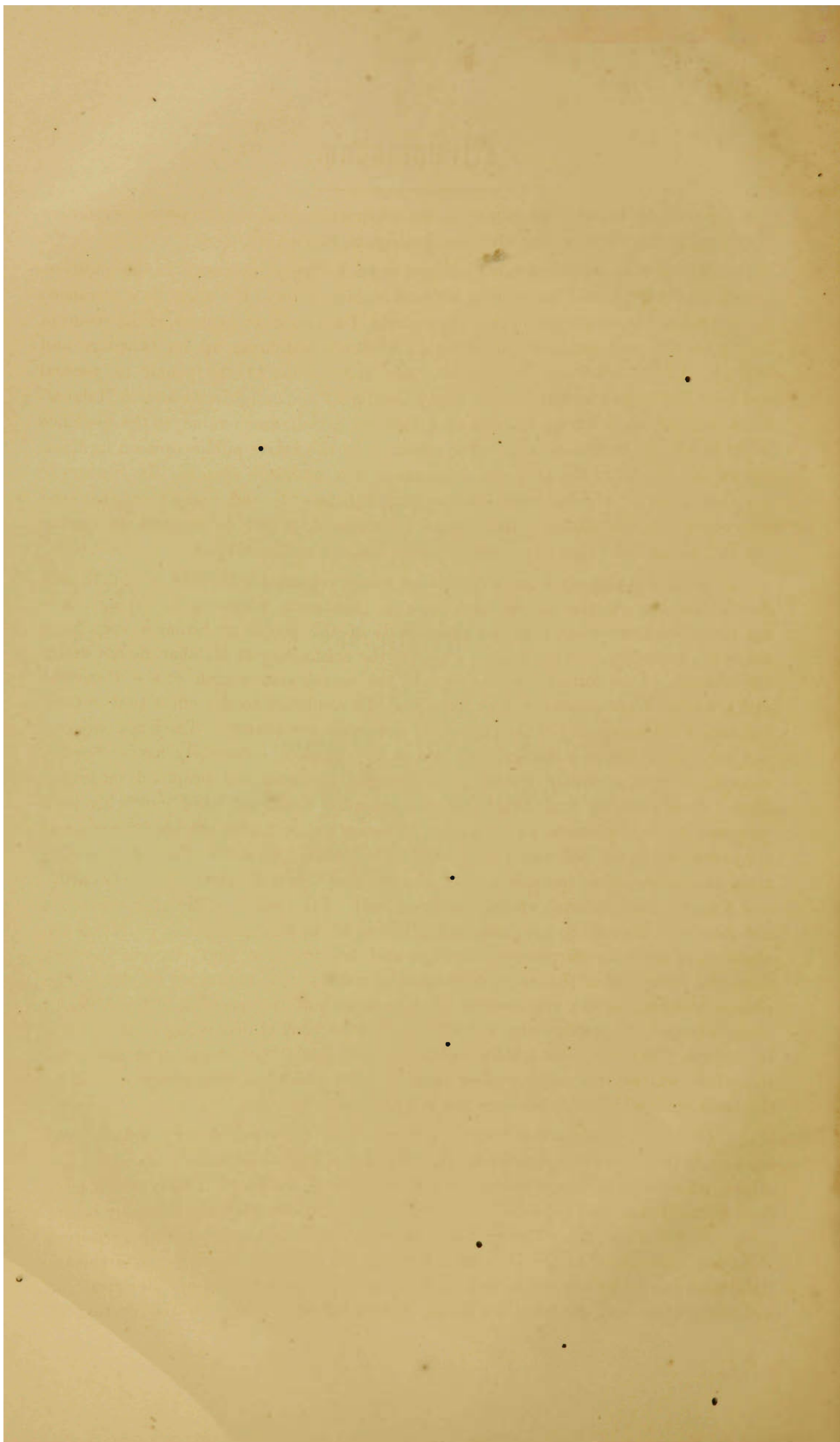
RAMA VARMA.

Memorandum

BY

O. CHANDU MENON,

Member, Malabar Marriage Commission.



Memorandum.

I wish to make a few observations separately about the proposed legislation in respect of marriages of the Marumakkathâyam Malayalies.

Myself a Malayalie of this class and as such deeply interested in the question, I need hardly say that I have given my best consideration to the arguments advanced for or against the measure and that the opinion, I am about to express, is the result of a long careful and anxious consideration of the question in all its bearings and aspects. I have tried my best to ascertain the opinion of the people in general and have discussed the matter with many intelligent and enlightened men in Malabar. Here it is necessary for me to note that I do not attach much value to the evidence taken before the commission as a true reflection of the native public opinion in Malabar on the subject of the proposed changes in the marriage system. It appears to me that most of the witnesses that appeared before us, and many that answered interrogatories, had made up their mind before-hand, either to support or oppose the Bill and did not care to represent public feelings on the subject.

As stated already I have spoken to many respectable Hindus of North and South Malabar on the subject and have no hesitation whatever in saying, from my personal knowledge, that the great body of the people or rather a very large majority, including, I may say, the whole of the aristocracy of Malabar, do not desire any change. I am fortified in this view by the unanimous opinion of the President and the other Commissioners, who have passed a resolution to the effect that in their opinion, a large majority of the people did not desire any change. The large majority not only do not desire a change, but are, in my opinion, extremely averse to any change, or more correctly speaking, indignantly condemn the proposed measures. Here I must state my firm belief that the measure would not have met with such universal and so vehement an opposition from the public, had it not been for some of the provisions in the Bill which the people rightly think, have the effect of changing their nationality, their *individuality* as Marumakkathâyam Hindus. There is hardly one Nayar in one hundred, among the great body of the public of Malabar, who does not view with horror the provision in the Bill as to the non-recognition or rather the abolition of caste for purposes of marriage and the provision that changes the fundamental principles of the law of succession of the Marumakkathâyam Hindus. The provision regarding the registration of marriages and the removal of the hitherto observed rules of consanguinity and affinity are also equally disgusting to the public in general. In my humble opinion, nothing could have been more unfortunate for those few, who ask for marriage law, than to have published this obnoxious bill as the basis upon which legislation on the subject was to proceed.

Of course, I admit that there is a very small minority, a very infinitesimal fraction of the population, consisting of some of the English-educated men and a few others, who desire a change in our present system of marriage. They would have done better if they had consulted the public opinion thoroughly and carefully before bringing out such a Bill. The violent changes in the social and religious constitution of Nayars, introduced by the Bill, naturally had the effect of making the orthodox Malayalees (and they are the large majority) hate the measure as one designed for abolishing caste and Marumakkathâyam system of succession, on the pretext of

legalising marriages. In this connection it becomes necessary to say a few words about the Bill itself, in order to show the ideas of the people generally about the matters therein dealt with.

The Bill opens with the following Preamble:—

“Whereas it is expedient to provide a permissive form of marriage for *Hindus* following the *Marumakkathâyam Law of succession* and to provide for the maintenance of the wives and children after the performance of such marriages; it is hereby enacted as follows.”

Nothing could be more misleading than this Preamble. A glance at the provision in the Bill will show that, whatever may be the declared object of the Bill, the matters dealt with therein are such as no one could have anticipated from a Preamble worded as above.

The Bill says that the law is intended for Hindus following *Marumakkathâyam Law of Succession*. The people rightly ask, where we will find such Hindus 15 or 20 years after the Bill becomes law. It is idle to say that the Bill does not interfere with the Tarawâds of Malabar. It destroys the Tarawâd system altogether. The Tarawâd property means the accumulations of wealth, acquired by the individual members of such Tarawâd, and if the law holds, as the Bill shows, that the individual acquisition should hereafter go to the wives and children of the person acquiring it and at the same time that the property, already accumulated, under Tarawâd system, should be distributed and enjoyed according to the *Marumakkathâyam law*, it is perfectly plain that the Tarawâds cannot exist for any length of time. Therefore, in plain words, the Bill aims at abolishing the Tarawâd system altogether.

The public are struck with the provision which disposes of, in a summary manner, the caste system in Malabar. Whatever may be the prevailing opinion of a portion of the English-educated Malayalee youths on the subject, there cannot be any doubt as to the fact, that all eminent English and Native thinkers of the present generation, who are intimately acquainted with Indian Institutions and characters, have always thought that it would be highly impolitic, for the Government, to interfere with the caste system in this country. On this point a distinguished Law member of the Viceregal Council, an Englishman who had very carefully studied the question, in the course of his speech on the Brahmo Marriage Bill, in 1872, said as follows:—

“The institution, of caste in particular, whatever may be its evils, has provided safe-guards against misconduct which it would be mischievous, in the highest degree, to sweep away like so much rubbish.”

Under the Bill, a young Nair, a junior member of a Tarawâd, is at liberty to marry a Pariah woman and is of course entitled to live in his Tarawâd with his Pariah wife. No social or religious rule can effectually interfere with his status on account of the marriage, for, he has the *express sanction of law* to marry the Pariah woman as a *Marumakkathâyam Nair*. No Hindu can deny that such a rule violates the Hindu religious and social law in a most vital point. Still the Bill is called “a bill to provide a marriage law for *Marumakkathâyam Hindus*.”

That the law of succession of the *Marumakkathâyam Hindus*, as the law of all other Hindus, who follow *Makkathâyam* or any other law of succession, is chiefly based upon religious rites, cannot be honestly denied by any one who knows the customs of Malayalees. The general principle of the Hindu Law which guides

succession is that "*he who is the spiritual benefactor of a deceased person shall succeed to the property of such person.*" That, according to the Malabar Law and customs, to a Marumakkathâyam Nair, his Anandravers are his Pindakartha പിണ്ടകർത്താ or the spiritual benefactors, no one can deny. That, has been so ordained and it has been going on in accordance with such ordinance for thousands of years past. Even the most enthusiastic supporters of the Bill, in their depositions before us, affirmed that a family of Anandravers who omit to offer funeral cakes or observe pollution on the death of their Karanavan, forfeited their caste and status in society. Such is the religious constitution of the relation between a Karanavan and Anandravan in Malabar, and it was in accordance with this relation that our law of succession was framed. If we ask the British Government to alter the law of succession, could we also ask the Government to alter our religious law, enacted according to the notions of Hindu Sages and law-givers for the spiritual benefit of the Marumakkathâyam Hindus? Could we ask the Government to legislate that the son shall be (Pindakartha) പിണ്ടകർത്താ or the spiritual benefactor of a Marumakkathâyam Nair in the place of his Anandravan? I am sure the British Government would indignantly refuse to legislate on the point even if we venture to ask them. As the British Government would not interfere with our religious law, so they could not, according to their policy, interfere with our civil rights based upon such law, unless the people wish to change it or unless the exercise of such rights involve a crime or is opposed to public policy.

The Brahmos who wanted a marriage law had to declare beforehand that they had ceased to be "Hindus." They declared that they scorned to profess the Hindu religion and that they felt conscientious scruples in celebrating their marriages according to the rights of an idolatrous people. They declared that they had a religion of their own and that they wanted to regulate marriages according to that religion. Would any Nair in Malabar go to this length? It will be seen that the Government of India, even in the case of the Brahmos, wavered a good deal before giving them a law, because they were very anxious to know how it will affect the national Hindu Law. But the Bill does not recognise this fact and legislates as if we did not form part of the Hindus or indeed of any nation recognised as such in India. Its provisions in this respect are most revolting to the tenets of our religion and a law which introduces such sweeping changes in the constitution of Marumakkathâyam Hindus does not deserve to be called a law for Marumakkathâyam Hindus.

It is said that the Bill is only permissive and does not compel Nairs to marry according to its provisions—and that if the Nairs do not like the law, they need not adopt it. This, I admit, is so; but it is necessary to consider the effect of making such a law available for the Marumakkathâyam Hindus. Suppose an Anandravan of a Tarawâd consisting of a hundred souls, takes it into his head to marry according to this permissive law. He may marry a Pariah girl or a Nair girl of equal standing with him and bring her into the Tarawâd house. What will be the consequence of this? If he brings a Nair girl she has a status quite different from that of the wives of the other members of the Tarawâd and that is enough to produce great heart-burning among the other wives brought into the Tarawâd and to destroy the peace of the Tarawâd for ever. The children of the other wives may well be pointed to as bastards by the legal wife. If the Anandravan brings a Pariah wife, the consequences seem to me appalling. The whole of the members of the Tarawâd, if they wish to keep up their caste and social status, will have to leave the Tarawâd house and

live elsewhere. Is this not very hard upon the poor Nair Tarawâds of Malabar? And then as to maintenance suits and other suits resulting from such state of feelings between the members of a Tarawâd, I am afraid that the already existing percentage of Tarawâd suits will be multiplied hundredfold.

Such are some of the objections against the fundamental principles of the Bill. I do not at all wonder that all true Hindus are indignant at such startling changes in their social and religious customs and ordinances, introduced on the pretence of legalising our marriages.

Having stated as above my opinion that the people are quite averse to changes on the proposed lines in the Bill, I have now to state my opinion whether the Marumakkathâyam Hindus of Malabar have any system of marriage and if they have no system, whether they should have one, at least for the protection of the small minority who ask for it.

The Honorable Mr. Sankaran Nair says in his speech that "Though the Nairs are Hindus by religion their marriages are performed without any religious rites." I must observe here that those who wish the change, including Mr. Sankaran Nair, do not wish it on account of a desire to infuse more religious elements in our marriages. The Bill has levelled down the sacred institution of marriage to a system of business-relation or ordinary contract, enforceable at law. It seems to me that the reason of stating at the outset of this speech that our marriages are performed without any religious rites was perhaps to make it appear that our present marriage system is more vulnerable in its constitution than it would have been *if any religious basis was accorded to it*. I do not, of course, mean to say that our marriage system is altogether a religious institution. We, Nairs of Malabar, have very little of Hindu religious rites in any of our ceremonies. All our ceremonies are devoid of *Mantrams* or Sacraments as we are prohibited from studying or repeating Vedas. But whatever may be the basis of our present marriage system or whether it has any religious recognition or sanction, I must state here my opinion that a vast majority of the people of Malabar remain perfectly satisfied with the present system and should feel very unhappy if any new law to regulate marriage is thrust upon them.

It is always difficult to defend or justify the social and religious customs of Oriental nations according to the European notions of morality and theology. Many customs sanctioned by our law and usage and observed by us daily, appear to the Europeans extremely immoral and quite unjust according to their notions of morality. For instance, the Brahmans and Kshatrias who are said to have highly religious marriages have polygamy as an institution sanctioned by Hindu law, and from the Himalayas to Cape Comorin you could find no orthodox Hindu, who would disapprove of polygamy as an immoral institution. Now polygamy is looked upon as a very immoral and shameful custom by Europeans. The Hindus know this very well. Perhaps some of the English-educated Hindus think of polygamy in the same way as the Europeans. Yet you will not find a single Hindu, whether English-educated or not, who would agree to the view that because polygamy is permitted and practised, the Brahman marriage system is an immoral or defective system. Likewise it will be difficult to find a Brahman who would not feel horrified if he finds polyandry practised by a Brahman woman. She and her paramor become outcastes the moment they are found guilty of polyandry. They are condemned and put out of

society and looked down upon by every Hindu with the greatest contempt and horror. Now to an European the polygamous husband appears as immoral and wicked a person as the polyandrous wife appears to a Brahman. But the custom permits polygamy and therefore the Hindu practises it and does not feel at all ashamed at his conduct. Such is the force, the ancient customs and manners exercise over the minds of the oriental nations. I make these remarks simply to show that each nation values its own custom in respect of its marriage and other social and religious institutions independently of what other people think of them and to a certain extent each nation has got its own code of morality in respect of such institutions. In connection with the question of introducing new marriage systems an eminent English Lawyer, who was a Law member of the Viceregal Legislative Council, once stated as follows:—

“Laws relating to such subjects as marriage have their root in the very deepest feelings and in the whole history of a nation; nor is it easy to imagine a more tyrannical or a more presumptuous abuse of superior force than that which would be involved, in any attempt to bring the views and practices of one nation upon such subjects into harmony with those of other nations whose institutions and characters had been cast in a totally different mould.”

I would now describe briefly the ceremonies or formalities which constitute marriage among Nairs and leave it to others to say, whether the ceremonies and formalities observed by Nairs, in order to constitute marital relations, have any religious element in them.

I think the Malayalam word “Sambandham” in its peculiar sense, as used throughout Malabar proper, Cochin, and parts of Travancore, conveys the same idea as the word marriage etymologically conveys in the English language, viz. “the union of man and woman as husband and wife.” *Sambandham* is the principal Malayalam word for marriage as *Vivāham* (വിവാഹം) is in Sanscrit. Whatever may be the basis of the *Sambandhams* of the Marumakkathāyam Nayers, there can be no doubt that the idea which the word conveys to a Malayalee is the same as the word *Vivāham*. This generic name “സംബന്ധം” (*Sambandham*) which in South Malabar between Calicut and Nedunganad and in Ponani, Cochin and parts of Travancore, is the only word to denote marriage, includes,

1. Guna Dosham as used in South and North Malabar.
2. The Podamuri or its Sanskrit synonyme *Vastradānam* used in North Malabar.
3. *Uvamporuka* and *Veedāram Kyruka* of North Malabar.
4. The *Kidakora Kalyānam* of Palghat and parts of Nedunganad.

The *Podamuri*, *Vastradānam*, *Uvamporuka*, *Veedāram Kyruka* &c. are local expressions hardly understood beyond the localities in which they are used, but there would be hardly a Malayalee who would not readily understand what is meant by “സംബന്ധം തുടങ്ങുക” *Sambandham Todunguka*. The meaning of this phrase which means “to marry” is understood throughout Kêrālam in the same way and there can be no ambiguity or mistake about it.

It is thus found that “സംബന്ധം” (*Sambandham*) is the principal word denoting marriage among Marumakkathāyam Nairs. It will also be found, on a close and careful examination of facts, that the principal features of this “സംബന്ധം” (*Sambandham*) ceremony all over the Kêrālam, are in the main, the same. As there are

different local names denoting marriage, so there may be found local variations in the performance of the ceremony. But the general features are more or less the same. For instance, the examination, prior to the betrothal, of the horoscopes of the bride and the bridegroom to ascertain whether their stars agree astrologically, the appointment of an auspicious day for the celebration of the ceremony, the usual hours at which the ceremony takes place, the presentation of the *Dānom* to the Brahmans, the sumptuous banquet, the meeting of the bride and bridegroom in the central room of the house, the sprinkling of the rice on the heads of the bride and the bridegroom, are features which are invariably found in all well conducted *Sambanthams* in all parts of Kêralam alike; but here I would beg to state that I should not be understood as saying that each and every one of the formalities above referred to, are gone through at every *Sambandham*. I would only say that most of them are generally gone through at all *Sambandhams* among respectable Nairs and I would further say that they ought to be gone through at every *Sambandham*, if the parties wish to marry according to the customs of the country. I would now briefly refer to the local variations to be found in the ceremony of *Sambandham* and also the particular incidents attached to certain forms of *Sambandham* in Malabar. I shall describe the *Podamuri* or *Vastradānam* as celebrated in North Malabar and then show how the other forms of *Sambandham* differ from it. Of all the forms of *Sambandham* I consider the *Podamuri* form the most solemn and the most fashionable in North Malabar. Of course my description will be borne out by the evidence that is before us.

The preliminary ceremony, in every *Podamuri*, is the examination of the horoscopes of the bride and the bridegroom by an astrologer. This takes place in the house of the bride, in the presence of the relations of the bride and the bridegroom. The astrologer, after examination, writes down the results of his calculations on a piece of Palmira leaf, with his opinion as to the fitness or otherwise of the match and hands it over to the bridegroom's relations. If the horoscope agree, a day is then and there fixed for the celebration of the marriage. This date is also written down on 2 pieces of cadjan, one of which is handed over to the bride's Karanavan and the other to the bridegroom's relations. The astrologer and the bridegroom's party are then feasted in the bride's house and the former also receives presents in the shape of money or cloth and this preliminary ceremony which is invariably performed at all *Podamuri* in North Malabar is called "*Podamurikurikal*," but is unknown in South Malabar.

Some 3 or 4 days prior to the date fixed for the celebration of the *Podamuri*, the bridegroom visits his Karnavars and elders in caste to obtain formal leave to marry. The bridegroom on such occasion presents his elders with betel and nut and obtains their formal sanction to the wedding. On the day appointed the bridegroom proceeds, after sunset, to the house of the bride accompanied by a number of his friends. He goes in procession and is received at the gate of the house, by the bride's party and is conducted with his friends, to seats provided in the *Thekina* or Southern Hall of the house. There the bridegroom distributes presents *Dānam* or money gifts to the Brahmans assembled. After this, the whole party is treated to a sumptuous banquet. It is now time for the astrologer to appear and announce the auspicious hour fixed. He does it accordingly and receives his dues. The bridegroom is then taken by one of his friends to *Pad'nitta* or the principal room of the house. The bridegroom's party has, of course, brought with them a quantity of new clothes and betel leaf and nut. The clothes are placed in the western room of the

house called Padinitta in which all religious and other important house-hold ceremonies are usually performed. This room will be decorated and turned into a bed-room for the occasion. There will be placed in the room a number of lighted lamps and *ashtamangaliam* which consist of 8 articles symbolical of *mangaliam* or marriage. These are rice, paddy, the tender leaves of the cocconut-tree, an arrow, a looking glass, a well washed cloth, burning fire and a small round wooden box called “ചെപ്പു” (cheppu) made in a peculiar fashion. These will be found placed on the floor of the room aforesaid as the bridegroom enters it. The bridegroom with his grooms-man enters the room through the eastern door. The bride dressed in rich clothes and bedecked with jewels, enters the room through the western door accompanied by her aunt or some other elderly lady of her family. The bride stands facing east with the *Ashtamangaliam* and lit up lamps in front of her. The grooms-man then hands over to the bridegroom a few pieces of the new cloth and the bridegroom puts them into the hands of the bride. This being done, the elderly lady who accompanied the bride, sprinkles rice over the lit up lamps and the heads and shoulders of the bride and the bridegroom, and the bridegroom immediately leaves the room, as he has to perform another duty. At the Thekina or southern hall, he now presents his elders and friends with cakes and betel leaf and nut. Betel and nut are also given to all the people assembled at the place. After the departure of the guests, the bridegroom retires to the bed room with the bride.

This is an unvarnished account of a “Podamuri.” Next morning the Vettillakettu or Salkâram ceremony follows and the bridegroom’s female relations take the bride to the husband’s house where there is feasting &c. in honor of the occasion.

Uvamporuka or Veedâramkyral is a peculiar form of marriage in North Malabar. It will be seen from the description given above that the Podamuri is necessarily a costly ceremony and many people find it difficult to celebrate it in due form for want of money. Such people generally resort to the less costly ceremony of Uvamporuka or Veedâramkyral. The features of this ceremony are to a certain extent the same as Podamuri; but it is celebrated on a smaller scale. There is no cloth giving ceremony. The feasting is confined to the relations of the married couple. The particular incident attached to this form of marriage is that the husband should visit the wife in her house and is not permitted to take her to his house, unless and until he celebrates the regular Podamuri ceremony. This rule is strictly adhered to in North Malabar and instances in which the husband and wife, joined by Uvamporuka or Veedâramkyral ceremony and with grown up children, being the issue of such marriage, undergoing the Podamuri ceremony, some 15 or 20 years after Uvamporuka, in order to enable the husband to take the wife to his house, are known to me personally.

The Sambandham of South Malabar and the Kidakora kalyânam of Palaghat have all or most of the incidents of Podamuri, except the presenting of the clothes. Here money is substituted for clothes and the other ceremonies are more or less the same. There is also *Salkâram* ceremony wanting in South Malabar as the wives are not at once taken to the husband’s house after marriage.

Immediately connected with the above said marriage ceremony, is another ceremony which is called “Kettu-Kalyânam” and which prevails among the whole Marumakkathâyam people of all classes from Cape Comorin to Kavayi. Whatever may have been the origin of this Kettu-Kalyânam I have little or no doubt that the ceremony, as now observed, is essentially a religious ceremony which every girl in a Marumakkathâyam family is bound to undergo, before attaining puberty, on pain of

excommunication from caste. This view is supported even by the evidence now before us. As almost all the witnesses have described the details of this ceremony, it will merely be a waste of time to recapitulate them here. This ceremony which is performed as a preliminary ceremony renders the girls eligible for marriage. The non-performance of this ceremony, before the girl attains her puberty, works a forfeiture of the caste of the whole Tarawâd to which the girl belongs. It is said by some, who do not like our institutions, that when we look to the details of this ceremony, we find reason to think that the Nair girls, by undergoing this ceremony, become almost free to practise prostitution and lead an immoral life. It is said that by tying the Tâli on the first day and by cutting and removing it on the fourth day of the Kallyânam ceremony, a marriage was first constituted and then dissolved and that after this dissolution, the girl is permitted to lead the life of a prostitute. Nothing could be a greater or more unfounded falsehood than this allegation. In my opinion the Kallyânam is a mere preliminary ceremony something like a “സംസ്കാരം” Samskâram among other Hindus which makes the person who undergoes it, eligible to marry. The fact that the ceremony is ordained to be performed before the girl attains her puberty is in my opinion a valid reason for supposing that except as a “സംസ്കാരം” Samskâram the ceremony has no connection with actual marriage. I do not think that where facts clearly disprove prostitution and immoral life in Nair women, we should have recourse to such arguments as these to show that the Kallyânam ceremony is not intended or considered as a passport to prostitution.

The general notion among the people who do not personally know Malabar customs and institutions, is founded upon the Nambûdiri version of them and the “Keralolpathi” and the “Kêrala Mâhathmîum.” These two books that are supposed to give accounts of the Nair institutions, are works of the Nambûdiri Brahmans, who from interested motives, have always wished to make out that our women do not and need not practise chastity. The evidence given by some of the Nambûdiris themselves before us will, however, refute this doctrine and show that the practice has never been in accordance with it; but foreigners who wrote about Malabar in ancient times, had the Brahman version only to depend upon and the two works above quoted, to consult. Hence, there is a general notion that we have no marriage system, but only concubinage accompanied with great laxity of morals. This notion must have, in the absence of evidence to the contrary, greatly influenced the High Court of 1869, in saying as they did, about our marriage system, but I am hopeful that if matters are put in their proper light, the High Court may change their view. Mr. Logan who evidently has taken much pains to collect informations on the subject, remarks on the marriage system in Malabar in the following words:—

“This part of the Malabar Law has in the hands of unenquiring commentators brought much undeserved obloquy on the morality of the people. The fact “at any rate of recent years is that although the theory of the law sanctions freedom “in these relations, conjugal fidelity is very general. Nowhere is the marriage “tie—*albeit informal*, more jealously guarded or its neglect more savagely avenged.”

Mr. Logan of course cannot easily divest himself of his early impressions on the subject received from the writings of Buchannen, Thackery, Warden, Wilk &c. and that is why he still says “*albeit informal*.” Mr. Logan’s *theory of law that sanctions freedom in these relations* was perhaps what he found in the Keralolpathi and Kêrala Mâhathmîum the two recent Nambûdiri works composed with the evident object of degrading the social status of the Nairs.

As to whether our present marriage system deserves to be recognised by Law as a valid and binding system, I think there cannot be two opinions. I ask that when the Courts find that the allegations of the existence of promiscuous intercourse and laxity of morals and want of marriage system &c. in Malabar, are all absurdly unfounded, that when they find that the community of Nairs and Tiars, that is to say the respectable and a very large majority of it observe the Marriage Law, as strictly as any other nation in the world, when the court find these facts to be true, would not they hold, according to good conscience and equity, that we are entitled to the protection of the Penal and Civil Laws which protect other Hindu subjects of Her Majesty, the Queen Empress, in the enjoyment of their matrimonial rights.

From his speech, Mr. Sankaran Nair himself does not seem to be quite sure as to what was the binding character of the customary Law of marriage among Nairs, before the High Court said in 1869 "the relation to be mere concubinage." There can however be hardly any doubt on the point, notwithstanding what the foreigners wrote about it on imperfect and absurd information they received from the great enemies of the Nairs—the Nambûdiri Brahmans and Nambûdiri-ridden Rajahs and their people in the ancient days. To prove that the Nairs who were essentially a martial race and were highly sensitive about any breach of their marital rights, had a valid and binding form of marriage, innumerable instances may be quoted from the ancient writings of well-informed men, our old country ballads and many other sources available. But I will quote here only one instance at present. The British Commissioners of North Malabar once asked the Rajah of Chirakal to inform them what was the Law on adultery among Nairs. In the reply, I understand from a credible source, will be found a statement from the Rajah to the effect that he who committed adultery with a Nair's wife forfeited his life, that is that the husband had a right to kill the adulterer or the adulteress or both, on the spot, with impunity. To a martial race, summary laws of this nature suited better in those days than the elaborate hairsplitting Civil Law. Our race has, I admit, degenerated since those days. The martial spirit is dead under a powerful foreign Government; but I think it was clearly the duty of British Courts to have examined and ascertained most carefully and thoroughly, the state of marital relations among Nairs, before deciding the question, whether we had a marriage system or not and even if they found that there was no uniformity in the custom of marriage &c., the Courts should have helped us by validating and upholding our present system, if they found it based on good moral principles and sanctioned by social usage. Sir Fitzjames Stephen remarked in his speech on the Brahmo Bill of 1872 that "native laws should not be changed "by direct legislation except in extreme cases though they may and ought to be "moulded by the Courts of Justice so as to suit the changing circumstances of "society. If this principle is fully grasped it will, I think, serve as the key to nearly "every question which can be raised to the alteration of native laws." Taking this principle as their guide, it will be enough if the courts will carefully enquire into the present state of things and ascertain whether we have a marriage system or not. As stated elsewhere I admit that there may be Nair women who are professional prostitutes. But the existence of such men and women do not at all prove that we have no marriage system. The English, the French and the other civilized nations, who have elaborate Marriage law, have among them, many men and women addicted to immorality and whose practices, were it not for the laws against bigamy, would have been termed *polygamy* or *polyandry*; but that does not in any way weaken the Marri-

age law in Europe. What the respectable portion of a community accepts and observes as their custom should be treated as the custom of that community and is any one who desires a change in the marriage system, prepared to say that respectable Nairs have no marriage? Even the great mass of evidence taken before us supports the view, that Nairs have a system of marriage recognised by custom. I don't think that it is necessary to change our Marumakkathâyam law of succession in order to have our marriages legally recognised.

It appears to me to be a simple denial of justice to Nairs, to say that because some Nambudiri-landlords successfully use their influence, that their wealth and position in Malabar give them, to seduce Nair women, that because there are professional prostitutes among Nair women, who do not know what marriage tie means, that because we follow Marumakkathâyam descent of property, therefore we are not entitled to have our marriage, however solemnised, recognised by law. That our Brahmanical Hindu law recognises as valid, marriages from which rights to property do not arise to either party to such marriage or their issue, is evident from the custom which some Nambudiri Brahmans, who are recognised as Brahmans by the whole Brahman race in India, observe in North of Malabar, even to this day. A learned Brahman of this clan was a witness before us and has described the custom. Their marriage is solemnised with all the religious ceremonies that are undergone at every Brahman marriage in India. The *Homam*, the *Mantrams*, the *Saptapadi* &c. ceremonies are strictly and rigidly observed. Widowhood is recognised and observed as strictly as in other Brahman class; yet the issues of such a solemn and religious marriage are *Marumakkathâyam Hindus* and do not inherit their father's property, but follow Marumakkathâyam law of descent. Now, would it not be great injustice to hold that adultery with a married lady of this Brahman caste, enticing away the married woman of this caste, are not offences under the Indian Penal Code, because the Brahmans follow the Marumakkathâyam system of succession, however solemn and binding their marriage may be? In my humble opinion, the system of succession to property, has nothing to do with the solemnity or the binding character of a marriage founded upon our religious, moral and social laws and customs, and if it can be shown that we have a perfectly good system of marriage founded upon our religious and social custom, why should not that system be recognised by our Courts? That among Nairs there exist women who practise polyandry as a caste institution, recognised by our custom, is nothing but an unmitigated falsehood. It may exist in the nooks and corners of the District; but it is looked upon by the Nair community as a monstrous innovation due to the baneful Nambûdiri influence. If polyandry exist in a recognised form, let it be proved. Among the Carpenter and Blacksmith classes in Malabar, polyandry exists as an institution and we see every day the 4 or 5 chosen husbands among this class celebrating their Polyandrous marriage openly according to their caste rules, and with much ceremony and pomp; but can even the worst and most uncompromising enemy of the Nair institutions point to a Podamuri or Uvamporuka or Kidakora or any other recognised form of Nair Sambandham, throughout the Kêralam, at which a girl was wedded to more than one husband? If he can, I shall give up my contention and ask for legislation. I have not the slightest hesitation in saying that he would not be able to show a single instance of such a marriage whether in ancient or modern Malabar. Then, why cite the examples of the Nair harlots here and there, who are the slaves of the Nambûdiris and who form secret alliances with a number of men or who practise prostitution, as a profession! It is true that our women have no widowhood,

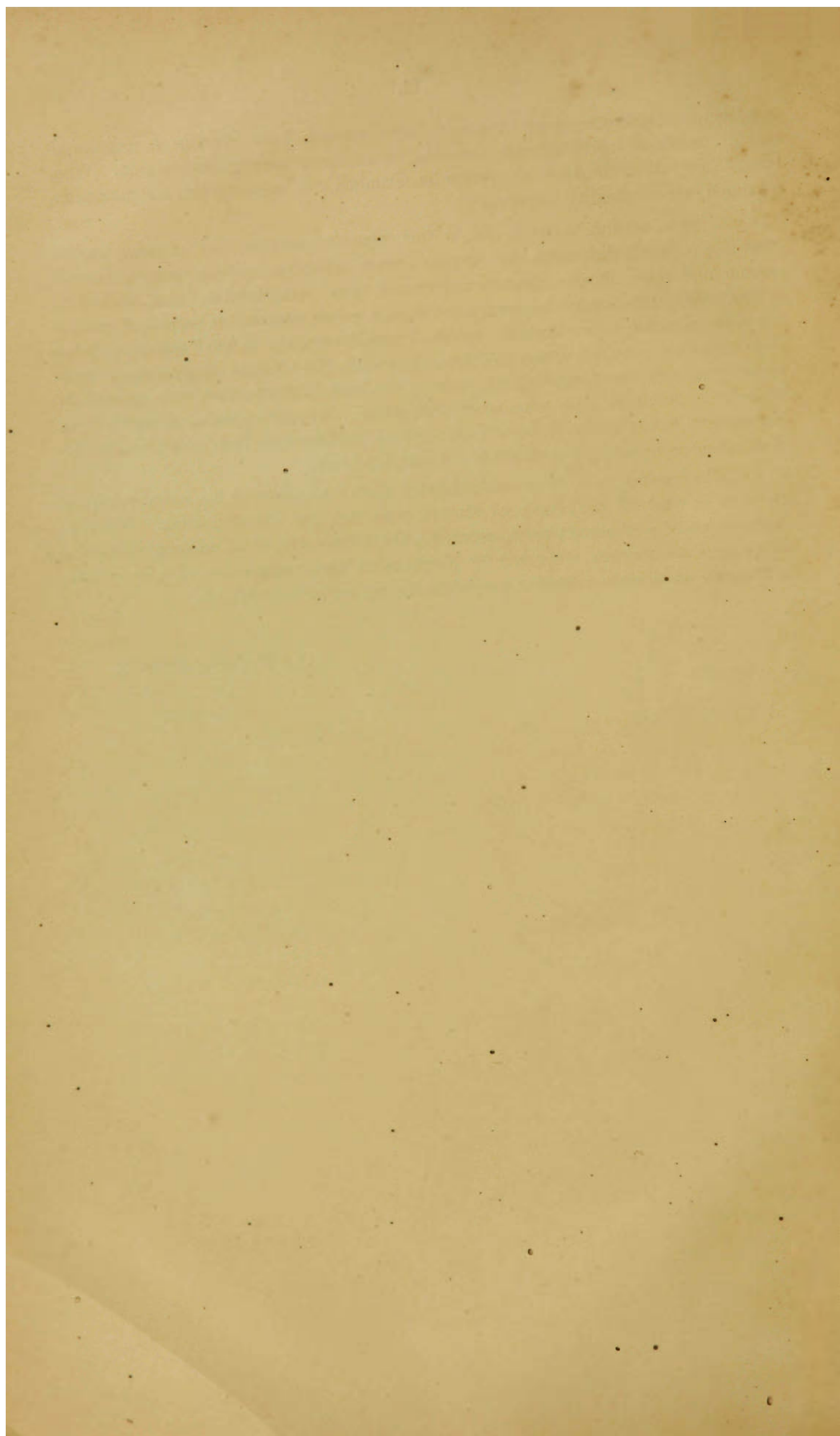
but I suppose there are many Sudras in other parts of India, having an undisputed law of marriage, not observing perpetual widowhood among their women. Why then, I ask, should our present system be changed, our caste-system and succession changed, our nationality destroyed?

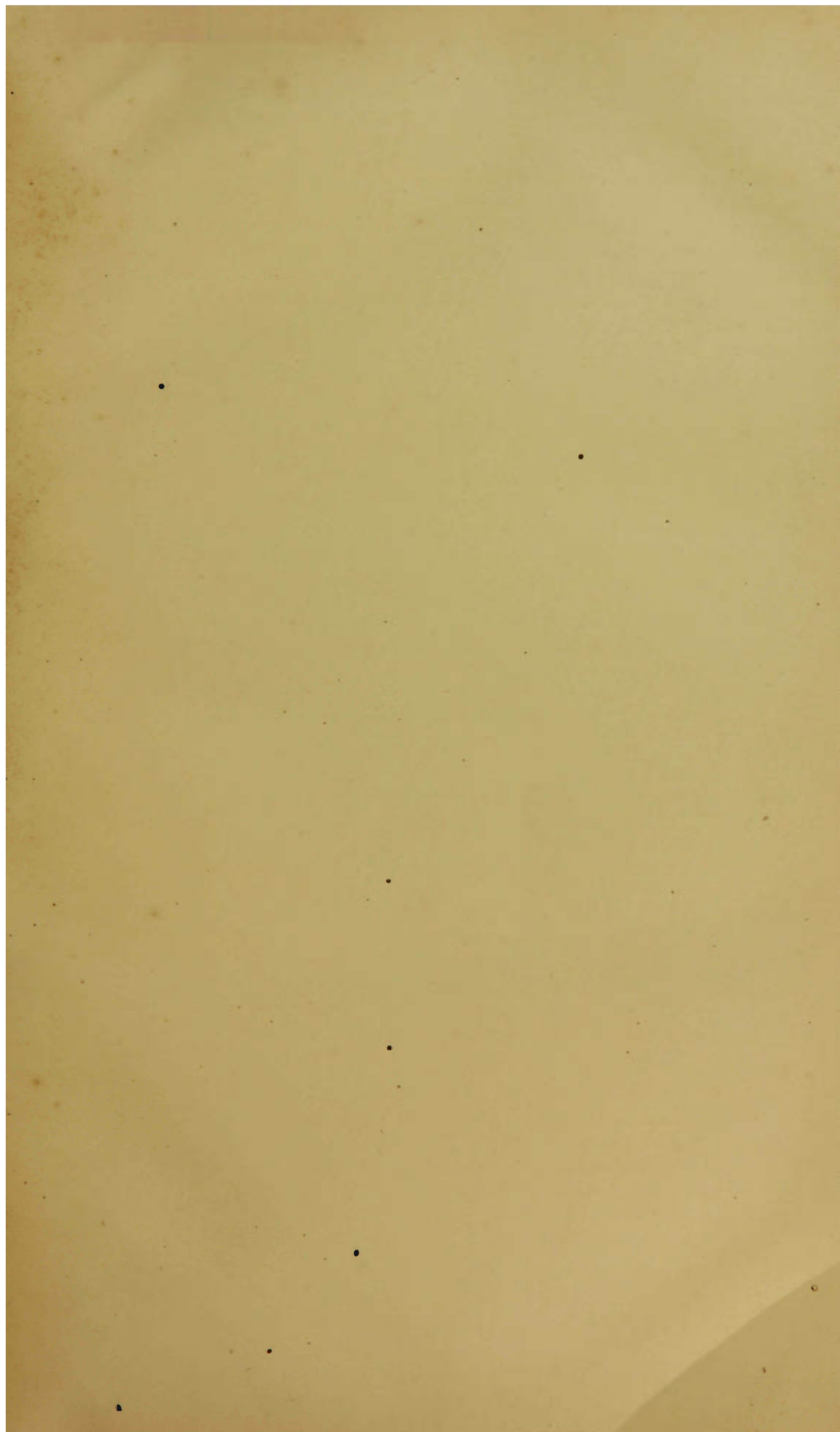
I have nothing more to add to this separate memorandum of mine, except that if it is found that under our present system, adultery, enticing away a married woman and other offences against matrimonial laws, recognised as penal, under the Indian Penal Code, cannot be recognised as such, when committed in respect of parties married according to our present system, I should certainly solicit legislation in the way formulated by our President, the Honorable Mr. Justice Muthuswamy Iyer whose proposals are, in my humble opinion, the least likely to meet with opposition from the bulk of the Nair population of Malabar. My own opinions on each of the suggestions, made by the Honorable Mr. Justice Muthuswamy Iyer, are given in the resolutions recorded, and need not be recapitulated here.

The freedom to a Marumakkathayam Nair, to dispose of his self-acquisition by will, is what all the people of Malabar wish that they should possess. Wills or declarations of a deceased person, regarding the distribution of his self-acquired property have always been respected by Nairs and a legal recognition of it by courts will enable us to make sufficient provisions for our wives and children.

O. CHANDU MENON.

CALICUT, }
1st July, 1891. }





CALICUT:
PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

ERRATA IN ENCLOSURE D.

In the Heading omit "Part I."

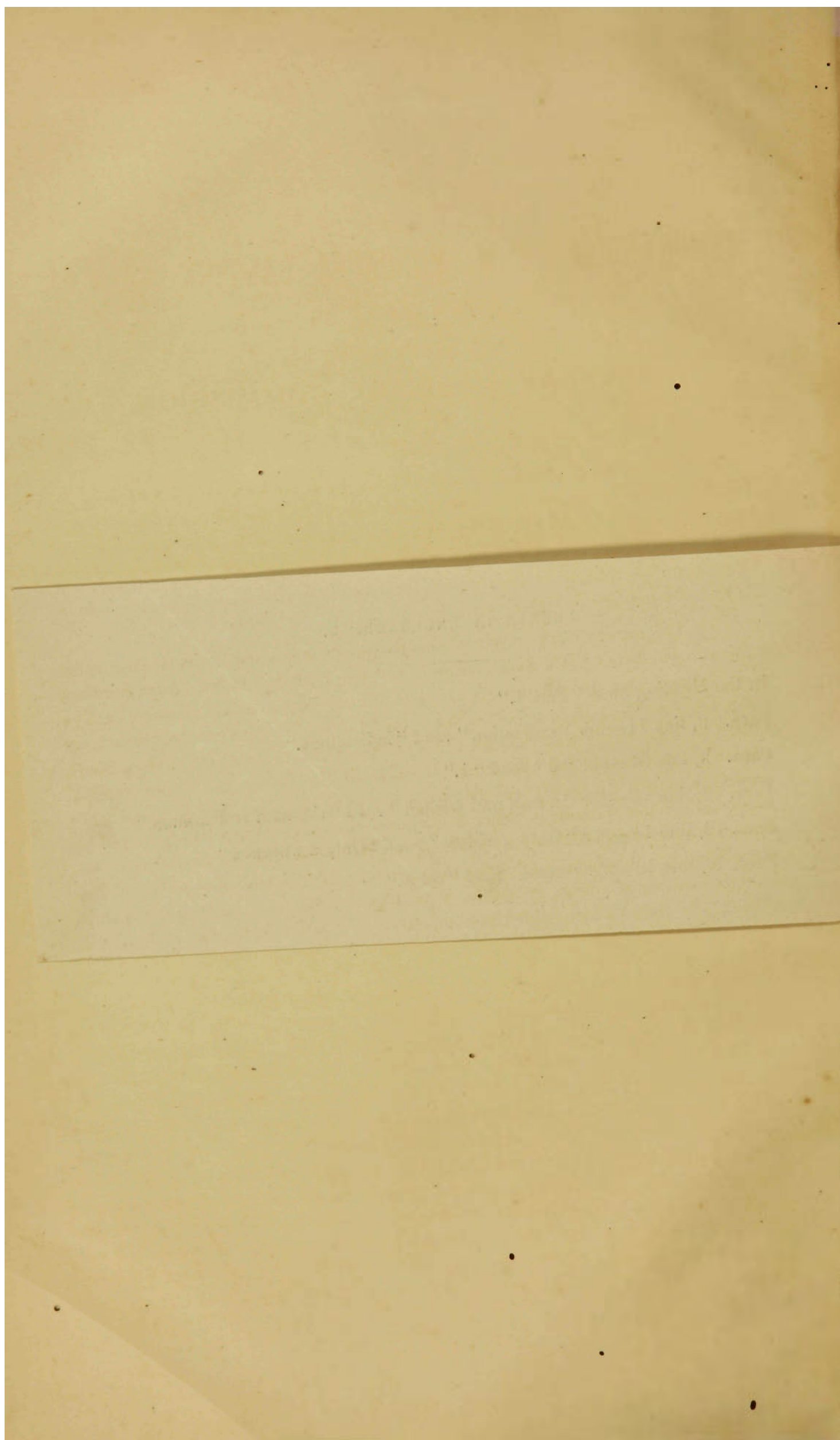
Para. 2, line 11—*For* "indication" *read* "indications."

Para. 2, line 24—*For* "6" *read* "1."

Para. 12, line 8—*For* "a man and woman" *read* "the man and woman."

Para. 12, line 14—*For* "Only a widow" *read* "Only a widower."

Para. 16, line 18—*For* "come" *read* "came."



MEMORANDUM BY M. MUNDAPPA BANGERA, B.A. & B.L.,

District Munsif of Mangalore,

AND A MEMBER OF THE

MALABAR MARRIAGE COMMISSION.

PART I.

The law of Aliya Santâna followed by several classes of Natives in the District of South Canara gives a system of inheritance similar to the one followed by the Malayâlis governed by the Marumakkathâyam law. The Canarese word "Aliya" meaning nephew (corresponding to the Malayâlam word *Marumagan*) and "Santânam" = descent or family; the whole word means descent or succession in the line of a nephew or sister's son.

The history of the origin of this custom as contained in the treatise called "*Bhutala Pandyana Kattu Kattale Galu*", or, "The Bhutâla Pândya's Aliya Santâna Law," shows that it was introduced by a despotic prince called Bhutâla Pândya about the year 77 A.D. in supersession of the *Makkala Santâna* or inheritance from father to son, which was then prevailing in the Towlava country (Modern South Canara). It is said that the maternal uncle of this prince, called Devapandya, wanted to launch his newly constructed ships with valuable cargo in them, when *Kundodara*, King of Demons, demanded a human sacrifice. Deva Pandya asked his wife's permission to offer one of his sons, but she refused, while his sister *Satiya-rati* offered her son Jaya Pandya for the purpose. Kundodara discovering in this child indication of future greatness, waived the sacrifice and permitted the ships to sail. He then took the child, restored to him his father's kingdom of Jayantika and gave him the name of Bhutâla Pândya. Subsequently, when some of the ships brought immense wealth, the demon again appeared and demanded of Deva Pandya another human sacrifice. On the latter again consulting his wife, she refused to comply with his request and publicly renounced her title and that of her children to the valuable property brought in the ships. Kundodara then commanded Deva Pandya to disinherit his sons of the wealth which had been brought in those ships, as also of the kingdom and to bestow all on his sister's son, the above named Jaya Pândya *alias* Bhutâla Pândya. This was accordingly done. And as this prince inherited his kingdom from his maternal uncle and not from his father, he ruled that his own example should be followed by his subjects; and it was thus that the Aliya Santâna law was established on 3rd Magha Shudda of the year, 6 of the era of Shalivahana, called Ishwara, about A.D. 77 (vide The Bhutâla Pândya's Aliya Santâna Law by Mr. T. Gopal Krishna Pillay, pages 2, 3 and Appendix C; also para. 2 of the Memorial addressed to His Excellency the Governor in Council, Madras, in or about the year 1868 which will be referred to more fully hereafter).

3. This Law is intended to govern all the three classes of people except Brahmins, *viz.*, Kshatriyas, Vysyas and Sudras, but practically only Sudras and the Jain residents of this District follow it. Hari Shettis who belong to the Vysya class though specially named in the Bhutâla Pândya's book as subject to this law are in practice all governed by Makkala Santâna or the general Hindu Law. Among the Jains the priestly class called the Indras do not follow it. So also among the Sudras, such a strong dislike is felt against the law, that we constantly see one class after another deserting it and declaring themselves as governed by the Hindu Law. Weavers, goldsmiths and some carpenters have thus already succeeded in completely renouncing their allegiance to that law. Ganigas or oilmongers are, I understand, now attempting to break through it. Among the Bants (a class corresponding to the Nayars of Malabar) a section called *Parivarada Bants* still follow Makkala Santâna system of inheritance. So also among Billawars (a class corresponding to the Tiyans of Malabar) a section called Halepaiks are to this day also governed by Makkala Santâna. These classes either refused in the beginning to be bound by the new law of Aliya Santâna, or revolted against it afterwards, and abandoned that new custom as being quite unsuitable to their well-being and happiness.

4. There was a general feeling of revolt against the said law in the year 1868 as evidenced by a memorial submitted to the Collector of South Canara for transmission to His Excellency the Governor in Council, Madras. The evils of this system have been thus set forth in it:—

NOTE:—(*The extracts are omitted as the petition is printed in full with the letter of A. Ramaya Punja. The last paper in Appendix III to which please refer.*)

5. When this Memorial was referred by the Collector through Tahsildars to 2,069 Aliya Santâna men, it was found that 525 voted for it, 465 were indifferent as to whether the proposal should be adopted or the Aliya Santâna system retained, and 1,079 voted against it. From this the Collector was of opinion that the majority of the people were opposed to the proposal and he accordingly refused to transmit the Memorial to Government.

6. The genuineness of the abovementioned work of Bhutâla Pândya was doubted by Dr. Burnell, the late District Judge of South Canara, who was of opinion that it was a recent fabrication. Notwithstanding, it has been practically accepted by the people as the only book containing the Aliya Santâna custom followed by them and is also consulted, so far as I know, as the only treatise of authority by Courts of Justice, whenever any points of intricacy, which come up before them, require elucidation.

7. *The Aliya Santâna Marriages.*—Among the people governed by the Aliya Santâna law, there is no restriction as to the marriageable age of a girl. She is married either before or after puberty. As, however, generally marriages are celebrated when the boy or girl is young, the duty of finding out a suitable match for the boy falls upon his elders who may be either the father, the uncle or the elder brother. Before a girl is fixed upon, it is incumbent on the elders of both parties to see that she does not belong to the same Bali to which the boy belongs. *Bali* in Aliya Santâna families corresponds to *Gôtra* of the Brahmins governed by Hindu law but differs from it in that it is derived from the mother's

side, whereas Gôtra is always derived from the father's side. There are 16 such *Balis*, some of them containing *sub-Balis*. Several of the *Balis* are so allied to each other that inter-marriages among them are prohibited. A marriage between a boy and a girl belonging to the same *Bali* is considered incestuous as falling within the prohibited degrees of consanguinity. It is not at all difficult to find out the *Bali* to which a man or woman belongs, as one can scarcely be found who does not know one's own *Bali* by rote. And the heads of caste who preside at every wedding party and who are also consulted by the elders of the boy or girl before any alliance is formed are such experts in these matters that they decide at once without reference to any books or rules whether inter-marriages between persons brought before them can be lawfully performed or not.

8. So that, if there is no objection on the score of *Bali*, and if in other matters the elders of the parties agree, a day is fixed for performing a ceremony known as the ceremony of betrothal. On this day, the bridegroom's party (but not the bridegroom) with a number of their friends and relatives go to the bride's house with a *Tâli* or a *Bandi* (neck ornament) and also with music and tom-tom (if the parties are well-to-do in their circumstances); there the elders of both parties stand up before the persons assembled and exchange plates of betel-leaf and nuts in token of the acceptance of the marriage proposals made to each other; the *Tâli* or *Bandi* is then tied by a senior member of the bridegroom's family (Tarawâd) or *Bali* to the neck of the intended bride; meals are afterwards served to the guests who then depart. By this arrangement the girl's relations are supposed to have entered, on behalf of the girl, into an irrevocable contract with those of the boy; and such contracts are rarely, if ever, broken.

9. After this is done, an auspicious time is fixed for the marriage. Feastings and rejoicings begin to take place even three or four days before the day on which the marriage is to be celebrated. Each day's dinner is called by a name. Marriages may take place either in the bride's house or in the bridegroom's house or even in a third party's house where there may be a separate couple marrying on the same day. Not only friends and relations but caste people from even distant parts are invited for the marriage. On the night previous to the day on which the marriage ceremony is to be celebrated, the bride and her party or the bridegroom and his party and caste people come in a procession to the marriage pandal with music, pomp and splendour varying with the means of the parties concerned. On the next morning, the bridegroom makes a present of a *Sadi*, a bodice (or petticoat) and a handkerchief (these are all of silk if the parties belong to rich and respectable families); in some cases, bride's father or uncle also at the same time presents a *Dhoti* or a *Shawl*, or a laced turban, or a silver or gold waist girdle to the bridegroom. The bride and the bridegroom are then seated together side by side on a bench, or chairs, covered with a white cloth. The right hands of the bride and bridegroom are placed one over the other, the headman of the caste holding them together and announcing at the same time in a loud voice that A the daughter of R is given in marriage to B the son of S, when the father of the girl pours water from a vessel with a spout attached to it, called the *Dhâre Ginde*. After this, the father or the uncle of the bridegroom makes a gift of money to the bride called "Thiridochee;" this sum varies from two to five hoons according to the means of the parties. The guests then make presents of money to the couple and

filling their hands with rice from basins laid before the bride and the bridegroom throw it over their shoulders and heads. This is considered by all Hindus to be the universal matrimonial benediction. And at last the girl is handed over to the bridegroom's party who take her to their house. The marriage ceremony ends here.

10. If the girl happens to be one who has already arrived at her puberty, a few days after the marriage, a dinner is given to a select number of friends and relations; the bride is made to serve food to the bridegroom who makes a small gift of money to her; and on that night consummation takes place. If, on the other hand, the bride is young, another ceremony called "**Madmal Madme**" in Tulu, meaning puberty ceremony, takes place before the boy and girl are allowed to cohabit.

11. It must, however, be here noted that Bhutâla Pândya's book lays down that during marriage *Dhâre Ginde* should only be touched, and not water poured down from it. This custom is even now followed in certain classes and in certain parts of the District. Perhaps this is the custom alluded to in the account given by Mr. A. Ramaya Punja, B.A., and B.L. Among all the respectable classes of Billawars, *Dhâre* (water) is poured on the united hands of the bride and the bridegroom by the bride's father. And I believe I am correct in stating that in all respectable Bunt families also the same custom is observed. This right of pouring water, or of lifting the *Dhâre Ginde*, formerly belonged to the heads of caste called Gurikars among the Billawars. But at present it is invariably performed, except perhaps in some remote villages, by the girl's father, in his absence by her uncle, or in his absence by her own elder brother. If the girl happens to be one without any senior male relations, the Gurikars arrogate this privilege to themselves even now-a-days. The publicity given to the marriage, the joining of the hands of the bride and bridegroom, the declaration made at the same time that such a girl is married to such a man before the caste assembly and above all the pouring of water or the touching of the *Dhâre Ginde* are sufficient to make the marriage valid in the eyes of the society to which the parties belong and who look upon the marriage tie as sacred.

12. *Widow-marriages*.—Though widow marriages are allowed among the Aliya Santâna people, they are practised only in rare cases, for, they think that in following the custom observed in this respect by their neighbours governed by the Hindu Law, they make themselves appear more respectable in the eyes of the public. No widows having children by their first husbands are generally re-married, such marriages being commonly confined to young widows only. The ceremony connected with such marriages is very short. A cloth and sometimes a cloth and a bodice are presented by the bridegroom to the bride; a man and woman stand or sit on opposite sides of a screen or cloth held between them; their hands are joined together under the cloth by the headman of the caste and the wife is enjoined not to call her husband thence forward by his name. This ceremony is brought to an end by serving meals to the assembled guests. It will be observed that no bachelor is allowed to take a widow for his wife under this ceremony. Only a widow or a person who has already got a wife under the *Dhâre* system mentioned above can accept the hand of a widow. Moreover, a woman who has had her first husband under the *Dhâre* ceremony cannot have her re-marriage performed under

the same form, either after her husband's death or divorce from him. But the man is not subject to the same restraints ; he can have any number of Dháre marriages, provided he does not take a widow for his wife during those marriages. A widow cannot, even after her second marriage, take part in any auspicious ceremonies.

13. *Bayake ceremony*.—When the woman becomes pregnant, a ceremony called “ Bayake ” is performed. Due publicity is also given to this ceremony ; and relations and caste people are invited for the occasion. The girl is seated on a bench or a chair in the pandai ; rice is thrown over her head, cloth and money presents are made to her and repast is served to the guests. And among Billawars after the ceremony is over, the woman and her husband are made to sit at meals side by side and eat together. I believe the same custom prevails among the majority of other Aliya Santâna castes also. After this is over, the woman is made over to her mother or other maternal relations who take her to their own house where her confinement is expected to take place.

14. *Husband and wife*.—During coverture, the husband and wife live together either in the husband's family (Tarawâd) house or in a separate house altogether. “ Till the death of the husband ” to quote the words of V. A. Brodie, Esq., C.S., Acting Collector, South Canara, in his Memorandum sent to H. M. Winterbotham, Esq., C.S., in connection with the Malabar Marriage Bill, “ the wife and children live with him and join in the work of cultivating the fields of his family estate, like the other members of his family and are maintained out of it by him ; so that the death of the husband when the widow and children have to leave every thing behind them and return to the family house of the widow, effect a much greater change in their position than in Malabar where the wife and children, as a rule, have never left their Tarawâd house and have all along been maintained, not by the husband, but by their Kâranavan.” Under the Rules laid down by Bhutâla Pândya, the wife and children should observe the Sutaka (pollution) on the occasion of death of the husband and participate in the effects of his sin or virtue ; they should also share in the virtue accruing from gift and charity and in the fame or infamy arising from any deeds, while the Santâna (the heir or Tarawâd) is to observe the pollution only on the occasion of birth and to succeed to the property (p.p. 7 and 36 of T. Gopal Kristna Pillay's Aliya Santâna Law, 1873).

15. An Aliya Santâna man is at liberty under the law governing him to bestow upon his children in gift moveable and immoveable property of his own acquisition but not his ancestral property. This liberty is availed of by most of the members of well-to-do families and gifts *inter vivos* are frequently made by them to their wives and children of their self-acquired properties and sometimes of some portions of their ancestral or Tarawâd property also, much to the prejudice of the rights of the remaining members of the Tarawâd. It is this latter practice that has been deprecated in the Memorial already referred to. It is the innate nature of man to love his own children and it is not therefore surprising that even an Aliya Santâna man should do the same and give his own property to those who are near and dear to him. Many such valuable gifts are made by Bants and Nadvars living in the Udipi and Kândapur Taluks of this District, who in their Memoranda sent to the Commission through the Acting Collector call their children as “ *Kriya adhikari*,” meaning that they are the proper persons entitled to perform

obsequies to their father. On the death of the husband the "Moogoothi" worn by the wife on her nose is taken off, the "tali" tied to her neck in token of her married life is removed, and the bangles broken from her wrists. These acts give us unmistakeable signs of the importance attached to marriage among the Aliya Santâna people and make us understand that the union entered into by man and woman during the celebration of the marriage in the presence of her caste people was intended to last for life. The rule is for one man and one woman to cleave together for life unless divorce is effected between them in the meanwhile. As to the fidelity of the Aliya Santâna women towards their husbands, J. Sturrock, Esq., C.S., who was Collector and Magistrate of South Canara for over six years and served in the District for over thirteen years speaks thus in his Memorandum, dated 3rd May 1891, sent to the Commission :—"The impression formed by me during thirteen years' residence in South Canara was that, among the higher classes, the Tulu women, who follow the Aliya Santâna rules, enjoyed a reputation for singular fidelity, and that even the lower classes did not regard the marriage tie more lightly than their neighbours governed by other laws."

16. *Divorce*.—Divorce is effected generally on reasonable grounds. A woman is, however, as free to divorce her husband as the latter is to divorce the former. But this is in almost all cases done with the knowledge of their elders who with the aid of some of their caste-men inquire into the reasons assigned by either of the parties and bring on separation, if reconciliation is found impossible. I am unable here to state any particular grounds which are supposed by the parties concerned as sufficient for separation. Adultery and habitual disobedience on the part of the wife and cruelty on the part of the husband are the grounds upon which divorce is generally effected. But it is not uncommon among the lower classes to get divorce effected on insufficient grounds or at the mere will and pleasure of either the husband or the wife. Such conduct is, however, looked down upon by society with disapprobation. No divorce is supposed to be complete before the husband's gift at marriage called "Thiridochee" or the marriage expenses are returned by the woman to her husband, especially in cases where the woman is in fault and the husband is on that account compelled to give her up. How far this condition is enforced in practice among the people can be seen from the following interesting account given by our Acting Collector of two Criminal cases which come up before him for trial in South Canara :—"In the first case the complainant—a fisherman or very low caste-man—complained of another for enticing away his wife from his house, and argued that he was entitled to redress under Section 497 of the Penal Code, as his wife had not returned first from his house to her family house, and his gift at marriage, "Thiridochee," had not been repaid him according to custom. In the second, a woman contracted a liaison with another and returned to her family house. Her husband and his uncle followed and demanded either the girl or the marriage expenses, whilst the girl demanded that her marriage expenses should be repaid, and she given in marriage to her paramour. In this case the parties were Billawars or toddy-drawers, and the girl's people never disputed the husband's rights, but as it was inconvenient for them to repay the marriage expenses, her uncle confined the girl for three days in stocks put up inside the house, in order to compel her to consent to return to her husband."

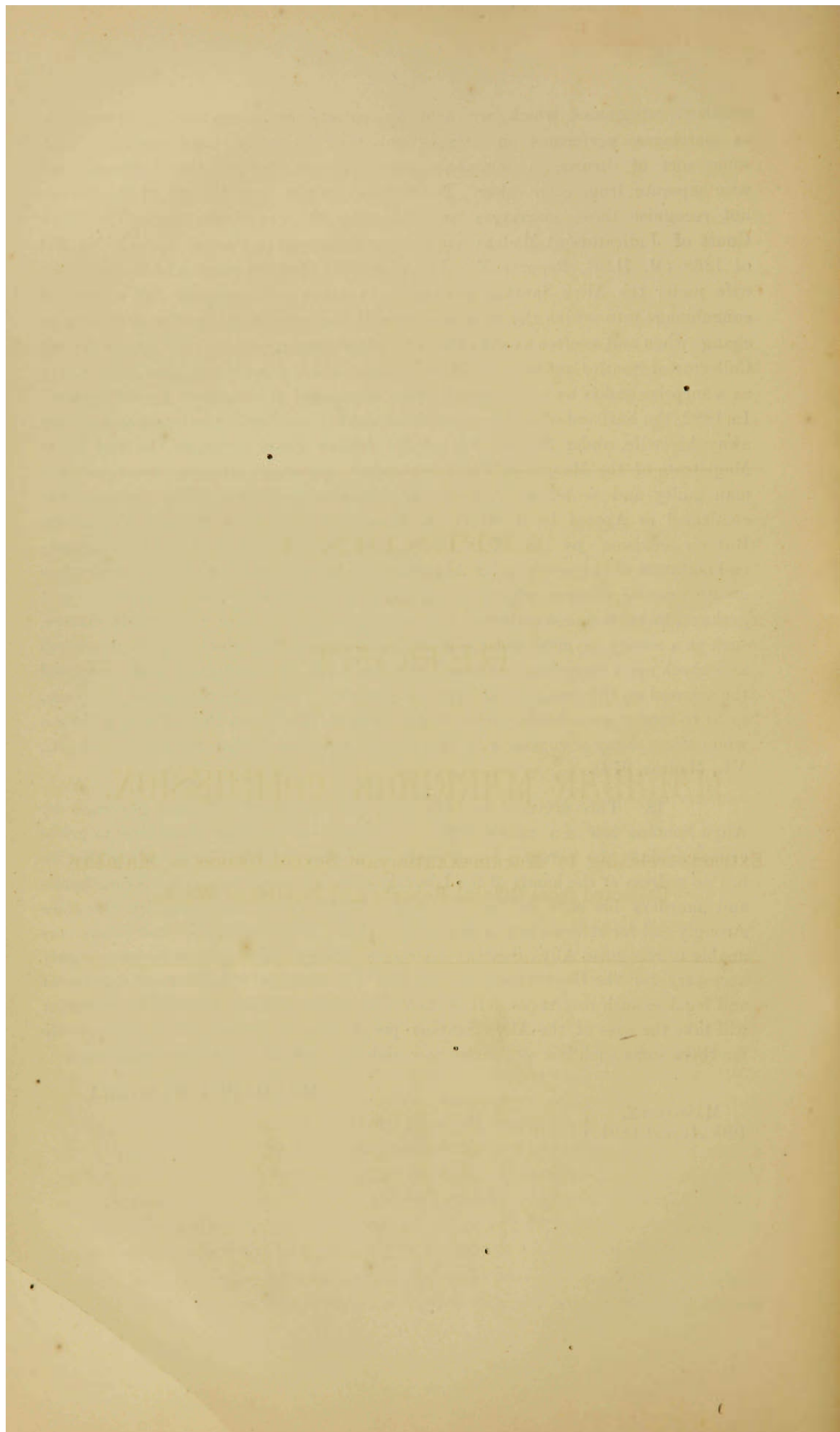
17. *How far these marriages are valid under law*.—From the above account it will be seen that the Aliya Santâna men and women undergo regular

marriage ceremonies which are held by society to be as binding upon them, as marriages performed on persons governed by other laws and also that some sort of divorce is commonly gone through before the husband and wife separate from each other. Notwithstanding it, our Courts of Justice do not recognise those marriages as valid under the eye of the law. The High Court of Judicature at Madras say in their Judgment in Special Appeal, No. 238 of 1868 (M. H. C. Reports, Vol. IV., page 203) that the relation of husband and wife under the Aliya Santâna system "is in truth not marriage but a state of concubinage into which the woman enters of her own choice and is at liberty to change when and as often as she pleases." This dictum, as observed by the Acting Collector of South Canara in his Memorandum, has "come down upon the country as a surprise and is by no means generally acquiesced in as correct by the people." In 1882, the husband of a girl complained against another for enticing and taking away his wife, under Section 498 of the Indian Penal Code, to the 2nd Class Magistrate of the Mangalore Taluk who after inquiring into the case found the man guilty and sentenced him to imprisonment and fine. This decision was confirmed in Appeal by J. Sturrock, Esq., C.S., the then District Magistrate. But on revision by the High Court, that Court held that "the customary co-habitation of the sexes under Aliya Santâna law appears to us to do no more than create a casual relation, which the woman may terminate at her pleasure, subject perhaps, to certain conventional restraints among the more respectable classes, such as a money payment and the control of relations, &c., which may be prescribed as a check upon capricious conduct," and set aside the conviction and acquitted the accused on the ground that that co-habitation "cannot be considered marriage, so as to render punishable, under Section 498 of the Indian Penal Code, a person who entices away a woman with the intents specified in that Section" (I. L. R., VI., Madras, 374).

18. This decision has not only left respectable families governed by Aliya Santâna law in a false position in Society but has also given rise to grave crimes against the person; for in cases of adultery, the husband finding that he has no redress at the hands of the law, takes the law very often into his own hands and murders his wife or her paramour. Public policy and morality therefore strongly call for reforms in this direction. If the Courts of Justice find themselves unable to recognise Aliya Santâna marriages as legal marriages, it becomes highly necessary for the Government to interfere by means of a legislative enactment and legalise such marriages. It is therefore earnestly hoped that the Government will take the case of the Aliya Santâna people into its consideration and provide for them some such law as the one now under consideration of this Commission.

MUNDAPPA BANGERA.

MANGALORE, }
10th August 1891. }



APPENDIX I.

TO THE

REPORT

OF THE

MALABAR MARRIAGE COMMISSION.

Extracts relating to Marumakkathāyam Sexual Usages in Malabar.
Collected from Official Reports and Published Works.

CONTENTS

1	Introduction	1
2	Chapter I. The Early Years	2
3	Chapter II. The Middle Years	3
4	Chapter III. The Late Years	4
5	Chapter IV. The Final Years	5
6	Chapter V. The Legacy	6
7	Chapter VI. The Epilogue	7
8	Chapter VII. The Conclusion	8
9	Chapter VIII. The Aftermath	9
10	Chapter IX. The Epitaph	10
11	Chapter X. The Epitaph	11
12	Chapter XI. The Epitaph	12
13	Chapter XII. The Epitaph	13
14	Chapter XIII. The Epitaph	14
15	Chapter XIV. The Epitaph	15
16	Chapter XV. The Epitaph	16
17	Chapter XVI. The Epitaph	17
18	Chapter XVII. The Epitaph	18
19	Chapter XVIII. The Epitaph	19
20	Chapter XIX. The Epitaph	20
21	Chapter XX. The Epitaph	21
22	Chapter XXI. The Epitaph	22
23	Chapter XXII. The Epitaph	23
24	Chapter XXIII. The Epitaph	24
25	Chapter XXIV. The Epitaph	25
26	Chapter XXV. The Epitaph	26
27	Chapter XXVI. The Epitaph	27
28	Chapter XXVII. The Epitaph	28
29	Chapter XXVIII. The Epitaph	29
30	Chapter XXIX. The Epitaph	30
31	Chapter XXX. The Epitaph	31
32	Chapter XXXI. The Epitaph	32
33	Chapter XXXII. The Epitaph	33
34	Chapter XXXIII. The Epitaph	34
35	Chapter XXXIV. The Epitaph	35
36	Chapter XXXV. The Epitaph	36
37	Chapter XXXVI. The Epitaph	37
38	Chapter XXXVII. The Epitaph	38
39	Chapter XXXVIII. The Epitaph	39
40	Chapter XXXIX. The Epitaph	40
41	Chapter XL. The Epitaph	41
42	Chapter XLI. The Epitaph	42
43	Chapter XLII. The Epitaph	43
44	Chapter XLIII. The Epitaph	44
45	Chapter XLIV. The Epitaph	45
46	Chapter XLV. The Epitaph	46
47	Chapter XLVI. The Epitaph	47
48	Chapter XLVII. The Epitaph	48
49	Chapter XLVIII. The Epitaph	49
50	Chapter XLIX. The Epitaph	50
51	Chapter L. The Epitaph	51
52	Chapter LI. The Epitaph	52
53	Chapter LII. The Epitaph	53
54	Chapter LIII. The Epitaph	54
55	Chapter LIV. The Epitaph	55
56	Chapter LV. The Epitaph	56
57	Chapter LVI. The Epitaph	57
58	Chapter LVII. The Epitaph	58
59	Chapter LVIII. The Epitaph	59
60	Chapter LIX. The Epitaph	60
61	Chapter LX. The Epitaph	61
62	Chapter LXI. The Epitaph	62
63	Chapter LXII. The Epitaph	63
64	Chapter LXIII. The Epitaph	64
65	Chapter LXIV. The Epitaph	65
66	Chapter LXV. The Epitaph	66
67	Chapter LXVI. The Epitaph	67
68	Chapter LXVII. The Epitaph	68
69	Chapter LXVIII. The Epitaph	69
70	Chapter LXIX. The Epitaph	70
71	Chapter LXX. The Epitaph	71
72	Chapter LXXI. The Epitaph	72
73	Chapter LXXII. The Epitaph	73
74	Chapter LXXIII. The Epitaph	74
75	Chapter LXXIV. The Epitaph	75
76	Chapter LXXV. The Epitaph	76
77	Chapter LXXVI. The Epitaph	77
78	Chapter LXXVII. The Epitaph	78
79	Chapter LXXVIII. The Epitaph	79
80	Chapter LXXIX. The Epitaph	80
81	Chapter LXXX. The Epitaph	81
82	Chapter LXXXI. The Epitaph	82
83	Chapter LXXXII. The Epitaph	83
84	Chapter LXXXIII. The Epitaph	84
85	Chapter LXXXIV. The Epitaph	85
86	Chapter LXXXV. The Epitaph	86
87	Chapter LXXXVI. The Epitaph	87
88	Chapter LXXXVII. The Epitaph	88
89	Chapter LXXXVIII. The Epitaph	89
90	Chapter LXXXIX. The Epitaph	90
91	Chapter LXXXX. The Epitaph	91
92	Chapter LXXXXI. The Epitaph	92
93	Chapter LXXXXII. The Epitaph	93
94	Chapter LXXXXIII. The Epitaph	94
95	Chapter LXXXXIV. The Epitaph	95
96	Chapter LXXXXV. The Epitaph	96
97	Chapter LXXXXVI. The Epitaph	97
98	Chapter LXXXXVII. The Epitaph	98
99	Chapter LXXXXVIII. The Epitaph	99
100	Chapter LXXXXIX. The Epitaph	100

CONTENTS.

• Page		Date.
1	Buchanan's Mysore, Canara and Malabar	1800
3	Thackeray's Report to Board of Revenue	1807
3	Warden's Report to Board of Revenue	1815
4	Wilk's History of Mysore	1817
5	History of Hyder Shah, edited by his grandson	1855
5	Malabar und die Missionstation Talatscherri... ..	1864
6	"The Land of Charity," by Mateer	1870
7	Madras Census Report	1871
8	Travancore Census Report	1876
9	McLennan's "Primitive Marriage"	1876
10	Cochin Census Report... ..	1876
10	A Hand-book of Travancore	1881
12	Wigram's Malabar Law and Custom	1882
13	Imperial Census of 1881, by Lewis McIver, C.S.,	1883
13	Manual of Madras Administration	1885
14	The Imperial Gazetteer of India	1886
15	Logan's Malabar Manual	1887
17	Mayne's "Hindu Law and Usage"	1888
18	Starcke's "Primitive Folk"	1889
18	Elie Reclus "The Primitive Family"... ..	1889

NOTE.—In this Appendix, I have gathered together, for convenience of reference, all that I have been able to find written regarding the customs, which regulate sexual intercourse in the Hindu Marumakkathâyam castes.

I have not, at the moment, been able to obtain one or two well-known books (*e.g.*, Day's Land of the Perumâls,) the absence of which may be remarked.

Considering for how long a period, the French, and the Basel German Missionaries, have been connected with the West Coast, it would seem likely, that the said customs, which throw so much light on the subject of primitive marriage, should not have remained uninvestigated by French and German residents in Malabar. From the German Missionaries I have obtained the single extract printed at page 5. I cannot find, on enquiry of the French authorities at Mahé, that any Frenchman, personally acquainted with Malabar, has written on the subject. Neither is it one with which the English-Malabar officials have greatly busied themselves. The shrinking from inquisitiveness on the one hand, and the natural reluctance to bring domestic peculiarities before the public gaze, on the other, have operated to check enquiry; and this, I believe, accounts for the comparative dearth of trustworthy European testimony. Native experts have likewise held their peace: or, at least, I am unacquainted with any work on the subject in the vernacular. Dr. Burnell in the introduction to his translation of Manu, mentions the *Anâchâra Nirnayam*, (Law of Abuses) as a genuine authority on Marumakkathâyam usage, and Gundert quotes largely from "Anâchâram" in his dictionary; but I have not met any native who has read it, and have been unable to obtain, or identify, the work referred to. The word "anâchâram" means an irregularity established by custom.

The "*Kérala Mâhâtmyam*," or "*Might of Malabar*," is an often-quoted chronicle in Sanskrit verse, ancient manuscripts of which, on palm-leaf, are believed to be possessed by some Nambudri, and Royal families. I am not conversant with the original, but have seen what purports to be a Malayalam version of it (kindly lent me by the Rev. Mr. Matthissen of the German Mission), and in this the liberty of the Sudra woman to indulge in amorous intercourse with a plurality of lovers is expressly asserted. I mention the fact in order that the Malayalam version may be impugned if at variance with the original. There is a tendency now to declare that this alleged "anâchâram" of polyandry is a sheer myth, which never existed but in the imagination of foreigners.

Calicut, May 1, 1891.

H. M. WINTERBOTHAM.

EXTRACTS FROM BUCHANAN'S MYSORE, CANARA, MALABAR.

Vol. II, p. 93, (Ed. 1870.)

Pages 93—95—December 12th, 1800, Chowghat.—“Having assembled the most respectable of the Nairs in this neighbourhood they gave me the following account of their customs.”

* * * * *

“The Nairs marry before they are ten years of age, in order that the girl may not be deflowered by the regular operations of nature; but the husband never afterwards cohabits with his wife. Such a circumstance, indeed, would be considered as very indecent. He allows her oil, clothing, ornaments, and food; but she lives in her mother's house, or, after her parents' death, with her brothers, and cohabits with any person that she chooses of an equal or higher rank than her own. If detected in bestowing her favours on any low man, she becomes an outcast. It is no kind of reflection on a woman's character to say, that she has formed the closest intimacy with many persons; on the contrary, the Nair women are proud of reckoning among their favoured lovers many Brahmans, Rajas, or other persons of high birth: it would not appear, however, that this want of restraint has been injurious to population. When a lover receives admission into a house, he commonly gives his mistress some ornaments, and her mother a piece of cloth; but these presents are never of such value, as to give room for supposing that the women bestow their favours, from mercenary motives. To this extraordinary manner of conducting the intercourse between the sexes in Malayala, may perhaps be attributed the total want, among its inhabitants, of that penurious disposition so common among other Hindus. All the young people vie with each other who shall look best, and who shall secure the greatest share of favour from the other sex; and an extraordinary thoughtlessness concerning the future means of subsistence is very prevalent. A Nair man, who is detected in fornication with a Shanar woman, is put to death, and the woman is sold to the Moplays. If he have connection with a slave girl, both are put to death; a most shocking injustice to the female, who, in case of refusal to her lord, would be subject to all the violence of an enraged and despised master.”

In consequence of this strange manner of propagating the species, no Nair knows his father; and every man looks upon his sister's children as his heirs. He, indeed, looks upon them with the same fondness that fathers in other parts of the world have for their own children; and he would be considered as an unnatural monster, were he to show such signs of grief at the death of a child, which from long cohabitation and love with its mother, he might suppose to be his own, as he did at the death of a child of his sister. A man's mother manages his family; and after her death his eldest sister assumes the direction. Brothers almost always live under the same roof; but, if one of the family separates from the rest, he is always accompanied by his favourite sister. Even cousins, to the most remote degree of kindred, in the female line, generally live together in great harmony; for, in this part of the country, love, jealousy, or disgust, never can disturb the peace of Nair family.

* * * * *

Page 105—“The Namburis, like other Brāhmans, marry, and live with their wives, of whom they take as many as they are able to support. A Namburi's children are also considered as his heirs. They do not lose caste on account of fornication with a Sudra woman; and indeed, in order to prevent themselves from losing dignity by becoming too numerous, the younger sons of a Namburi family seldom marry. They live with the elder brother, and assist the ladies of the Rajas, and of the Nairs of distinction, to keep up their families; and in general they are the most favoured lovers, the young women of rank and beauty seldom admitting any person to their bed, but a Brāhman, and more especially a Namburi.”

* * * * *

Page 165—January 5th, 1801, Kutiporam.—“Having procured some of the principal Nairs that attended on the Raja in a visit which he made to Captain Osburne, and a sensible

Namburi who seemed to be much in favour with that chief, I consulted them on the differences that obtain in the customs of the Nairs, who live north from the Vaypura river, from those that are observed in the southern parts of Malayala. The female Nairs, while children, go through the ceremony of marriage, both with Namburis and Nairs; but here, as well as in the south, the man and wife never cohabit. When the girl has come to maturity, she is taken to live in the house of some Namburi or Nair; and after she has given her consent to do so, she cannot leave her keeper; but in case of infidelity to his bed, may be punished with death. If her keeper have in his family no mother nor sister, his mistress manages the household affairs. The keeper, whenever he pleases, may send his mistress back to her mother's house; but then, if she can, she may procure another lover. A man's house is managed by his mother so long as she lives. When she dies his sister comes for the fifteen days of mourning. She afterwards returns to her lover, and remains with him until he either dies or turns her away. In either case, she returns to her brother's house, of which she resumes the management, and brings with her all her children, who are her brother's heirs. A Nair here is not astonished when you ask him who his father was; and a man has as much certainty that the children born in his house are his own, as an European husband has; while these children are rendered dear to him by their own caresses, and those of their mother, who is always beloved, for otherwise she would be immediately dismissed; yet such is the perversity of custom, that a man would be considered as unnatural, were he to have as much affection for his own children, as for those of his sister, which he may perhaps never have seen. Of all known manners of conducting the intercourse between the sexes this seems to be the most absurd and inconvenient. That prevailing in the southern parts of Malayala avoids all the domestic unhappiness arising from jealousy, or want of continued affection; but that here, while it has none of the benefits of marriage, is attended with all its evils."

* * * * *

Page 213—*January 19th, 1801—Kanyapura, (South Canara).*—"The Buntar are the highest rank of Sudras in Tulava, and resemble the Nairs of Malayala. Having assembled some reputable persons of this caste, they gave me the following account of their customs. They are of three kinds: Massadi Bunts, or Buntar properly so called; Jain; and Parivarada Buntar. The Massadi Bunts are those of whom I here examined. They can eat and drink with the Nairs; but the two castes have no sexual intercourse. They do not pretend to be by birth soldiers; their proper duty is the cultivation of the land. They can keep accounts, but are not admitted to any higher kind of learning. They have headmen, called Mocustas, one for every district. The office is hereditary in the males by the female line; the same mode of succession prevailing here as in Malayala. At present, this office merely confers dignity; the officers of Government having assumed all the jurisdiction that formerly belonged to the Mocustas, who settled disputes not only relative to castes, but also concerning property. In general, all the brothers and unmarried sisters of a family live together in the same house. All the property belonging to the family is considered as common, and is managed, for the good of the whole, by the eldest male. A man's own children are not his heirs. During his life-time he may give them money; but all of which he dies possessed goes to his sisters and to their children. If a man has a mother's brother's daughter he must marry her; but he may take two or three wives beside. The ceremony is performed by the girl's father, or other near kinsman. When a man marries several wives, none of them can leave him without his consent; but when discord runs high, he in general sends one of the disputants back to her brother's house; and then she is at liberty to marry again. A man, at any time, if he dislikes his wife, may send her back to her brother's house; and he can do no more if she has committed adultery. In all these cases, or when a widow returns to her brother's house on her husband's death, she is accompanied by her children, and may marry again, unless she has committed adultery with a person of low caste; but if that crime has been committed with a Brahman, Kshatri, Vaisya or Bunt, she is well received, her children become her brother's heirs, and no man will have any objection to marry her."

* * * * *

Page 239.—“The Biluaras pretend to be Sudras, but acknowledge their inferiority to the Bunts. The business of the caste is settled by a person called Guricara, who is appointed for the purpose by the Government, and who with the assistance of a council of elders, has the power of excommunication, and of inflicting corporal punishment. None of this caste can read. They are permitted to eat animal food, but ought not to drink intoxicating liquor. The men are allowed a plurality of women, who live in their houses; but on the husband's death the widows, with their children, return to their brother's houses, and the eldest son of the eldest sister of the deceased person becomes master of his house and property. If a man fall into poverty, his children go to their uncle's house, before their father's death. Girls continue to be marriageable after the age of puberty; and a widow, or divorced woman, may marry again. A man may turn away his wife when he pleases, but a woman cannot leave her husband without his consent. This however, by committing adultery with any person of the caste, she can in general procure; for few husbands retain their wives when unfaithful; and she is not disgraced, but may get another husband, or at any rate she can live with her brother.”

EXTRACT FROM “REPORT TO BOARD OF REVENUE, BY WILLIAM THACKERAY, ON THE REVENUE AFFAIRS OF MALABAR AND CANARA,” DATED 8TH SEPTEMBER 1807.

(Note.—Mr. Thackeray was deputed by the Governor of Madras to collect information regarding the state of Malabar and Canara).

“The succession of the sister's son has no particular effect upon, nor does it arise particularly from, the institution of private property in the soil. It probably arises from the ancient privilege of the Brahmins to visit the women, for when they established their Hierarchy they probably wanted soldiers and mistresses. They introduced the Nairs, and they have continued the custom ever since. The head peons most likely became Rajahs, as they have in most other places, and by degrees got possession of the lands. As the fathers of the children were uncertain, the succession followed the mother, about whom no mistake could arise. This appears to me to be the origin of this extraordinary custom, which when once established among the polite Nairs became fashionable, and was adopted by the other castes, even by the fanatic Mappillers, who are followers of the prophet. The Nair is said never to marry like other Hindus. He forms a temporary connection with any young woman that pleases him, which lasts while they continue faithful. The children he has nothing to do with: they belong to the family of the lady. This aversion to wedlock, so contrary to the usual customs, ideas, and religion, of the Hindus, has probably given rise to a rule of succession so contrary to their general customs.”

EXTRACT FROM A “REPORT TO THE BOARD OF REVENUE BY THOMAS WARDEN, ESQ., UNDER DATE THE 12TH SEPTEMBER 1815 ON THE SUBJECT OF LAND ASSESSMENT AND THE VARIOUS TENURES OF MALABAR.”

(Note.—Mr. Thomas Warden was Principal Collector of Malabar from 1804 to 1816.)

“Para 72.—It would thus appear that the governments of the Malabar Rajahs were purely Military. Their profession was arms, and they had only their arms to rely on for their independence. The Nayars formed the Military order in the state; and held also the different offices of administration; which, it may be supposed, were generally distributed among those whose advanced age, or other infirmities rendered them unfit for active service. Their Military constitution, next to the example of the mode of succession established in the families of the Rajahs, or most likely it may have been their own custom prior to their elevation as Rajahs, may have given rise to the singular custom of inheritance which obtains among the Nayars.

73. “The profession of arms by birth, subjecting the males of a whole race to Military service from the earliest youth to the decline of manhood, was a system of polity, utterly

incompatible with the existence amongst them of the marriage state. Without matrimony the existence of the common Hindu laws of inheritance was equally incompatible.

74. "Such, I apprehend, was the condition of the Nayrs under their ancient Governments; from which condition originated their customs of Inheritance through the Female Line, without reference to the Paternal Parent, a custom that has afforded matter for much speculative opinion.

75. "It is obvious from the nature of their professional duties, that their sexual intercourse could only have been fugitive and promiscuous; and that their progeny could never under such circumstances have depended on them for support. A Nayar arriving at an age fit to bear arms, considered it the extreme of disgrace to be any longer dependent on his own Family for subsistence. If there were no employment in his own country, he would seek for it in another. Men of their habits in those days could never have wanted employment. They must have been always in request, for the havoc of war fell chiefly on their race.

76. "Considering the interminable destruction to which they were thus liable, their Laws of Inheritance, and the privilege of Polyandry allowed to their females, will be found to have been admirably suited to their Social State. The Family Property though in general managed by the senior male member of the House was looked upon as rightfully belonging to the Females; for, without their unanimous consent, not an atom of it could be legally alienated. This affords another substantive reason for the attachment to jenm right. In the Zamorin's Family, the right of the Females in this respect is so fully recognized that the signature of the Senior Tamburatty to a deed of absolute sale is deemed indispensable in all alienations of the private, or Kelgum, Property. Whatever fortune or property a Nayar personally acquired in his career through life, reverted, on his death to his maternal estate.

77. "The Females of the Nayar race were thus insured the means of maintaining their children: their privilege in regard to Sexual Intercourse, afforded to the State the surety, if it may be so termed, of a numerous offspring; and the rigid interdict they were under against communion with any caste inferior to their own, preserved the blood from pollution.

78. "After the above disquisition on the State and Form of the ancient Government of the Malabar rajahs I must here remark that what may not therein appear supported by the voluminous recorded communications, which have been read by the Board, and on which they may have deduced the inference detailed in their Proceedings, is founded on the local information which a long residence and intercourse with the people, have enabled me to acquire. In a country where little remains but the Legends of Tradition to guide our researches, we are in a great measure left to form our opinions regarding its ancient History from the prevailing Institutions and Customs.

79. "The most singular Custom prevailing in Malabar is unquestionably that of Inheritance and I have stated the grounds of my opinion for attributing its origin to a state of Society arising from a Form of Government, purely military."

EXTRACT FROM WILKS.

Wilks, in his History of Mysore (Vol. III, Ed. 1817, page 4), gives the proclamation issued by Tippoo to the Nayars, on the occasion of his visit to Calicut, in January 1788:—

"And since it is a practice with you for one woman to associate with ten men, and you leave your mothers and sisters unconstrained in their obscene practices, and are thence all born in adultery, and are more shameless in your connexions than the beasts of the field; I hereby require you to forsake these sinful practices and live like the rest of mankind."

Wilks mentions (page 6) that "several highly enlightened correspondents who have favored the author with the result of their personal observations, after a long residence in

Malabar, bear honorable testimony to the respectable conduct of the Nair ladies of Northern Malabar." As regards South Malabar he says:—"If after a short cohabitation, the lady disapproves the choice of *her parents* (*sic*) she is at liberty to make her own, by accepting a cloth from the man of her own selection, and declaring in the presence of four witnesses that she discards her husband, and accepts the donor of the cloth; and this she may repeat as often as the donor of a new cloth can be found."

EXTRACT FROM "HISTORY OF HYDER SHAH, AND OF HIS SON, TIPPOO SULTAN."

By M. M. D. L. T., GENERAL IN THE ARMY OF THE MOGUL EMPIRE. REVISED AND CORRECTED BY HIS HIGHNESS PRINCE GHOLAM MOHAMMED, THE ONLY SON OF TIPPOO SULTAN.

(Ed. 1855, Page 60.)

"The Nayres are the nobility of the Malabar Coast. We may affirm that they are the oldest nobility in the world; for the ancient writers mention them, and quote the law that permits the Nayre ladies to have many husbands; every one being allowed four. Their houses which stand single have as many doors as the lady has husbands. When one of them visits her, he walks round the house, striking with his sabre on his buckler; he then opens his door, and leaves a domestic with his arms in a kind of porch, and who serves to inform others that the lady is engaged. It is said one day in the week, the four doors are all opened, and all her husbands visit her and dine together with her. Each husband gives a sum of money, or portion, at the time of marriage, and the wife only has the charge of the children. The Nayres, even the Samorin and the other princes, have no other heirs than the children of their sisters. This law was established that the Nayres having no family, might be always ready to march against the enemy. When the nephews are of age to bear arms, they follow their uncles. The name of father is unknown to a Nayre child. He speaks of the husbands of his mother, and of his uncles, but never of his father."

EXTRACT FROM "MALABAR UND DIE MISSIONSTATION TALATSCHERI."

By CHRISTIAN IRION.

(Printed at Basel, 1864.)

* * * * *

Page 12.—Next to the Temples and Brahmans these Nayars have now a share in the possession of land; but this, you may be sure, in such a way that no damage may accrue through them to Brahman interests. For instance, the family-property, or entailed estate belongs to the woman, *i.e.*, to the mother, or to the eldest sister who manages the household. These women, as has been already indicated, are willingly yielded to the voluptuousness of the Brahmans; or as the sixty-four Abuses express it:—"The Sudra women are not house-wives (*haus-weiber*) but class-wives (*klass-weiber*)"; sexual intercourse with men of the privileged castes does them no dishonour, rather honours them, so that through the women the most intimate mingling of the Sudras with the Earth-gods is effected. For a Sudra maiden the marriage ceremony is performed by some Brahman, before she attains to puberty. The priest (*sic*) will be dismissed with presents after a day or two. While she still continues living in her mother's house with her brothers, her uncle looks out as high a match as possible for her; that is to say, she receives visits from young Brahmans or Nayars, one of whom undertakes to provide her with clothing, and brings also oil for anointing, and festal presents. So long as it pleases them both, this union continues, and the children look upon the house in which they are born as theirs, and upon their mother's brother as the guide of their youth, and as the person from whom they will eventually inherit.

In Nayar language, he who feeds is the house-master (*haus-herr*), he who clothes is the paramour. The father can only give to those whom he supposes to be his children his self-acquired moveable property: all inherited property belongs to his sister's children."

(*Note.*—The above is a translation from a German pamphlet. The Rev. C. Irion was a German Missionary of the Basel Lutheran Mission, and had laboured in Malabar for nearly twenty years before the pamphlet was written.—H. M. W.)

EXTRACT FROM MATEER'S "THE LAND OF CHARITY."

(Ed. 1870.)

(*Note.*—The author was a missionary in Travancore, and wrote after nine years' experience, "wholly occupied in vernacular labours amongst the natives.")

Page 30.—To keep down the numbers of this caste, (the Nambudri Brahman,) the eldest son alone in a family is allowed to marry in regular form with a female of his own caste. The others form such temporary connections as they may find convenient, and are usually welcomed by the females of the Sudra caste, who regard it as a high honour to receive the visits of a Namburi. Should the eldest son have no issue, the second marries, and so on till the object is attained.

* * * * *

Page 36.—Amongst the Nairs there are several sub-divisions with their distinguishing titles and characteristics, and their respective gradations of caste pre-eminence.

The four castes of goldsmiths, brassworkers, blacksmiths, and carpenters form the lowest sub-division of the Sudras.

The Nair customs with respect to marriage are of a most singular and licentious character. In early youth the girls go through the ceremony of marriage by having the "tâil," or marriage cord, tied round her neck, but this is not followed by cohabitation. It is a mere formality, and simply sets her at liberty to exercise and follow out her own inclinations in more mature years. When arrived at a marriageable age, suitors present themselves, and the favoured individual offers to the young woman a cloth and other presents, and either resides with her or visits her at intervals in her brother's house. This is called "mundu koduthu pârp-pikka," "giving a cloth and residing together," and is the only practical substitute for marriage amongst these people. But this form cannot be regarded as constituting marriage in any true sense. It differs widely from the marriages of the Brahmans and Shânars, inasmuch as the engagement is not binding upon either party longer than they choose, and is readily dissolved. The woman is at liberty to dismiss the man or, the man to dismiss the woman, on very easy terms. A settlement of accounts as to presents, expenses of marriage, ornaments, &c., and a deed of separation, drawn up and signed in the presence of four witnesses of the same caste, completely dissolves this trivial connection. Many of these alliances are of course continued throughout life, but great evils result from the facilities afforded for change. Formerly, too, it was common for Nair females, while residing at their brother's house, to receive more than one visitor of the male sex, nor is this altogether unknown at the present day.

Mr. Mateer after stating that the third great sub-division of the population numbered 321,126, thus proceeds to describe it:—

Page 38.—The Ilavars and Shanars differ but little from one another in employments and character, and are, no doubt, identical in origin. The Shanars are found only in the southern districts of Travancore between the cape and Trevandrum; from which northwards the Ilavars occupy their place. These are the palm-tree cultivators, the toddy-drawers, sugar

manufacturers, and distillers of Travancore. Their social position somewhat corresponds to that of small farmers and agricultural labourers amongst ourselves.

The term Ilavar is derived from *Ilam* a native name for Ceylon. The tradition is that they are immigrants from that island, who came over at the request of some of the early settlers on the western coast. They are also called Choganmar or serfs, and in other parts of the Malabar coast Teeyars and Billavars. Their labours are chiefly bestowed on the cultivation of the cocoanut palm, and the manufacture of its various products. Many own or rent small plots of land, on which they cultivate a few trees and a small supply of kitchen vegetables, and some of them are in comfortable circumstances. They draw the fresh sap from the cocoanut palm, which is used as a drink, either fresh or fermented. It is also boiled into a coarse sugar, from which they distil the native spirit called "arrack."

The Sudra custom of a man and woman living together as husband and wife, with liberty to separate after certain settlements and formalities, has been adopted by most of the Ilavars, and by a few of the Shanars in their vicinity; and among these castes also the inheritance usually descends to nephews by the female line. A few divide their property, half to the nephews and half to the sons. The rule is that all property which has been inherited shall fall to nephews; but wealth which has been accumulated by the testator himself may be equally divided between nephews and sons. Some portion is usually left to the widow as a kind of legacy. She may, however, have received some property from her husband during his life, by deed of gift, or may have secretly accumulated her savings in anticipation of widowhood.

These strange customs have sometimes occasioned considerable difficulty to missionaries in dealing with them, in the case of converts to Christianity. Persons who have been living together after the observance of the trivial form of "giving a cloth" are of course required to marry in Christian form. The necessary inquiries are therefore made into their history and into the circumstances of each case of concubinage; deeds of separation, drawn up according to the heathen law, are read and examined, and all outstanding claims are legally settled. Many an hour have I spent along with my native teachers in such investigations. The ordinary form of divorce deed will be seen from the following translation of one in my possession:—

"This unalterable deed of separation is written and given by (woman) Valli Máthi, of Pandáratopu, in Neyyáttunkara District to (man) Mallan Changili, of Valiavilai, in Kotukkal District, on this 10th day of Veigasi month, M. E. 1034.

"Valli Máthi was married to Mallan Changili and resided with him for some time. Afterwards she refused to live with him, and went to her relatives to reside. Shortly after, she was taken as wife by one of her cousins and cohabited with him. When the former husband, Mallan Changili went and invited her to return she refused; and on his asking her to repay him the expenses incurred by him in marrying her and to sign a deed of separation, so that he might take another wife she consented to do so, on condition that he made an allowance for her support. Accordingly the expenditure was inquired into and settled and what was due to her was paid. She now signs this deed, saying, from this day I give liberty to Mallan Changili to marry or take as a wife any woman he chooses, according to caste rule, and she may inherit his property and debts, firewood and pots, and all that belongs to him.

"But should either I or my children, contrary to this agreement, make any claim hereafter on the property of Mallan Changili, the case, with this document, may be reported to the court, whose decision I shall obey, and again submit to the above terms.

"Witnesses,—

(Signed) VALLI MATHI."

"Mallan Karuman.

"Mátândan Kâli."

(Note.—The above deed of separation would be very interesting if it was certain that the parties to it were governed by Marumakkathâyam law, as Mr. Mateer appears to sup-

pose. The parties to it were Shânâr, many of whom admittedly follow the ordinary law of marriage and inheritance. The exclusion of the children contemplated in the last para. does clear up the doubt, because the provision may have been intended to apply to children born after the divorce. It is not stated that the woman had already any issue.—H. M. W.)

EXTRACT FROM "MADRAS CENSUS REPORT, 1871."

BY SURGEON-MAJOR CORNISH, F.R.C.S., SANITARY COMMISSIONER FOR MADRAS.

(Ed. 1874, p. 350.)

The Namburi Brahmins may marry as many as seven wives: but should a bridegroom wed a girl after the age of puberty he exacts a considerable dowry. The younger cadets of the family do not marry as a rule, but cohabit with Nair woman, and the Nair females esteem the honour of such alliances highly. The Pattar Brahmins are foreigners, who have settled in Malabar, and far outnumber the Namburis being as 11,072 to 7,227.

The cultivating castes, elsewhere entered as Vallârs, are here called Nairs. They held their land in former days on military tenure from the Brahmins. These Nairs constitute—

"The principal body of the Hindus in Malabar, and possess and cultivate the larger portion of the land." "In their personal habits the Nairs are clean. The women wear their hair in a singular fashion, drawn up in a large knot on one side, or on the top of the head. The women clothe themselves in a single cloth, often of a slight texture reaching from the waist to the calf of the leg. Abroad they wear over the shoulders, or cover their bosom with, another similar cloth, but in the house they generally put this aside. They deem it no shame to expose to the gaze of men the whole of their person as low as the navel."

The Nair women of Southern Malabar do not reside with their husbands, and until very recently held those peculiar doctrines of "free love," or of entertaining their lovers only so long as both were mutually satisfied, which seem to possess such fascinations for some classes of our American cousins. It is said, however, that the practice is now dying out. Inheritance among these people descends in the female line, as from their peculiar domestic relations no man is able to say who his father is.

EXTRACT FROM "REPORT ON THE CENSUS OF TRAVANCORE" BY V. NAGAM IYER, B.A., DEWAN PEISHKAR.

Published 1876.

* * * * *

Page 226—A Nair's family or "Tarwad" consists of his uncles, brothers and sisters and his sister's children. Owing to the loose nature of the marriage contract, which is almost a necessity induced by the practice prevailing in Namburi families of only the eldest male member marrying, the others having to seek wives from among this class, no man is able to look upon his wife's children as his own, and hence he centres his interest and his affection in the children of his sisters whom he regards as his own. These children are his Anandavars, (literally, those who come after: 'anantharam'—afterwards and 'aver' they) heirs to his property and to his person (*sic*) after death. They have the sole right to all property left by the Karanavan (both uncle and elder brother are included under this term) whether ancestral or self-acquired. The funeral obsequies are also performed by the heirs in preference to sons, who also in some places perform such rites. This system of succession though intended at first as an innovation upon the customs of foreign countries seems to be defended on the score of preponderance of the female element in man (*sic*). It is argued that a man is more represented in his sister's offspring than in his own by a woman of foreign blood.

Though his wants are few and those generally such as can be easily satisfied, the Nair cannot be said to be parsimonious in his expenses. The construction of a house, and the marriage ceremonies (tying of Tâli) of his nieces are the engrossing cares of every respectable Nair and oftentimes exhaust the earnings of a lifelong labour.

Every Nair girl must go through this ceremony at an early age. After the day and the auspicious hour for the marriage have been determined upon, the erection of the marriage

* Booth.

Pandal * commences, the decoration of which is in cases of affluent families magnificent, and forms an important item of the marriage expenditure.

On the day of the marriage the relatives, friends and neighbours having arrived, the Tâli is tied round the girl's neck at the auspicious moment accompanied by the usual complement of drums beating and musicians playing, amidst the deafening halloos of the assembled women. The invited party are then given betel and nut in the order of rank and importance, and treated to a rich and varied banquet. The ceremony lasts four days, but the period of mirth and rejoicing varies with the respectability of the family. The 'Tâli' however is not necessarily the badge of married life and does not possess the importance which it has in the eyes of foreigners. The person who ties it on the girl's neck is not her husband and cannot claim to receive her favours in after life. The Tâli must be tied either by an Eliathoo, Tiruvapaud or Cholia Patter, if the girl is of a very respectable family, or by any member of their own kindred who are known as Yenangar എണകർ or Machambis മച്ചമ്പിങ്ങർ. The Tâli tier is sent off with a suitable present at the conclusion of the ceremony.

When she attains the age of puberty she chooses her husband of her own free accord, which, however, is not circumscribed by any restriction of rank, wealth, or importance, so long as she confines her favors to a class not below her own. In token of her choice she receives a Mundoo from the man, which is done in the presence of relatives and neighbours, and constitutes the cloth-giving ceremony. The understanding thus induced between the parties cannot be enforced for any length of time on either side, but is dissolvable at pleasure.

* * * * *

Page 224.—“ Among Brahmins of Southern India the women appear in public as in Europe. The Namburi women of Malabar are however an exception to this practice. They observe strict rules of seclusion. This was probably an imposition upon them by Parasu Rama, when he colonized the country with a tribe of Brahmins, men and women, from Upper India, and was anxious that they should not go back to their native land. This and numerous other restrictions of which mention has been made, at large, in another portion of this report, answered his purpose very satisfactorily by cutting off all sympathy with their own kith and kin in the far north, from whom they were estranged in manners, life and dress. Among other classes of the Hindu community seclusion is altogether unknown. The women appear in public; they enjoy in company with men the amusements of the theatre or public shows; visit the museum or the park; appear before native officers of Government and Courts of Justice; form the principal part in all the marriage processions; visit the temples of the Gods; and bathe with little secrecy or precaution in the rivers. So much for Hindu women in general.

“ *The Privileges of Women on this Coast.*—In Travancore however they are on a much better footing than in any other Province of India. Women are here allowed to rule the country. During their reigns they preside on public occasions, interview with Foreign Ambassadors and State Officers and otherwise administer the affairs of the country. The peculiar law of succession and the nature of the marriage contract, which is simply another name for free love, render the females the sole proprietors of their household in which the males are as a matter of course—*non est*. This is the case in nearly half the number of houses in the country.

“ Accustomed to bear the most important part in the management of the household, and flattered by the good fortune which surrounds her, the Nair lady is distinguished by an

air of dignity, politeness in manners, and freedom in her intercourse with the other sex, which when added to a little personal prepossession, and a few literary attainments, render the women of this coast so proverbially attractive.

"The Nair females are remarkable for their accomplishments. Reading and writing are essential with every respectable Nair girl. Vocal music, and occasionally practice on musical instruments, are also considered becoming qualifications, and are very generally acquired. If the freedom of women is an index of civilisation as we so often hear it stated, then Travancore is decidedly the most advanced country in the world, for here the women enjoy the greatest liberty possible. Of the total educated women in the country (5,377) 2,656 belong to this class. That is there are 119 educated in every 10,000 Nair women."

EXTRACT FROM McLENNAN'S "PRIMITIVE MARRIAGE."

(Ed. 1876, pages 147-148.)

"Of the Nair Polyandry, we have three accounts. The account in the Asiatic Researches (vol. v, page 13,) is, that among the Nairs, it is the custom for one woman 'to have attached to her two males, or four, or perhaps more, as they cohabit according to rules.'—With this account, that of Hamilton agrees, (Account of the East Indies, vol. i, page 308), excepting that he states that a Nair woman could have no more than twelve husbands, and had to select these under certain restrictions as to rank and caste. On the other hand Buchanan states (vol. ii, page 411,) that the women after marriage are free to cohabit with any number of men, under certain restrictions as to tribe and caste. It is consistent with the three accounts, and is directly stated by Hamilton, that a Nair may be one in several combinations of husbands: that is, he may have any number of wives."

(Note.—The article in the Asiatic Researches above quoted is by Mr. Jonathan Duncan, and bears date 1798. Mr. Duncan was President of the first Malabar Commission appointed in 1792, and was afterwards Governor of Bombay.—H. M. W.)

EXTRACT FROM "REPORT ON THE CENSUS OF NATIVE COCHIN"

TAKEN 20TH JULY 1875. BY A. SANKARIAH, B.A., DEWAN PEISHKAR.

* * * * *

Page 37.—"The state of society among the Malabar Sudras is in some measure peculiar to it. At least, the economy of a Nair family differs from that of almost any other people in the world."

A family here consists of a mother and her offspring, and their descendants in the female line, at the head of which is the eldest male member called Tarawáttil Kárnavan. The women pass through the religious rites of marriage in the same way as all other Hindus, but they are united then to a symbolical husband and not to a particular individual.

"Avoiding the miseries of widowhood on the one hand, and of the legal restraints imposed by the stronger sex of 'coverture' and 'conjugal rights' on the other, they live in a state of free love in the domicile of their origin. The freedom of choice and of divorce may be liable to abuse, but many a man is wont to make the concubine the companion of his life, and to treat her and the issue with unfailing kindness, as if the law and church had sanctioned the alliance, and placed the woman's person and property at his exclusive control."

The superiority of the Malabar Sudras over their cousins of the other parts of India is undisputed, whether in respect to make and complexion, or intelligence and manliness. This is clearly traceable to the comparative freedom and independence of the females, and their association with the Brahmins.

Another advantage of the Marumakkathâyam system is seen in the happy state of union amongst brothers and sisters, which preserves the family property from division for successive generations. To use the words of a novelist, the chemical affinity which began in the cradle and strengthens with every year of life is not here dissolved by the introduction of that third element, which makes of the brother a husband, while the new combination casts out the old sometimes in a disagreeable effervescence.

Now-a-days some unreasoning prejudice seems to be setting against it which is doubtless due to the influence of the adherents of the rival system; and parents too often contrive to make provision for their children at the expense of the peace and comfort of their own Tarwads.

(*Note.*—According to Mr. Sankariah “the revival of the Kshatria families was effected by the connection of the Brahmins with their fair”; and the “Royal families of Cochin” (he remarks) “thus preserve their pure blood,” *i. e.*, as Buchanan more coarsely puts it, by the ladies “submitting themselves to be impregnated by Nambudris.”—H. M. W.)

EXTRACT FROM “A HAND-BOOK OF TRAVANCORE.”

Printed at the Keralavilasam Press, Trevandrum, 1881.

(*Note.*—This compilation is anonymous, but the author is believed to be a Nayar official.—H. M. W.)

* * * * *

Page 111.—“Malayala Sudras who go under the broad name of Nairs of Malabar form the bulk of the nation numbering 440,932 persons. They constitute the agricultural portion of the population, the whole landed property of the kingdom being cultivated by them as tenants to the Namboori Brahmin land-lords who are known as the Jenmis of Malayalam.

“The majority of them are even to this day the tenants of the Jenmis who live remote from towns and cities and far away from the busy walks of life. They pay their customary homage and treat their Jenmi as liege lord.

“In Travancore, the Nairs are generally known by the name of Malayala Sudras. The term Nair is also of common occurrence.

“The different classes under this broad nomenclature are numerous. Neither the Brahmins nor the Sudras of Malabar are the aborigines of the land, but, as already observed, they were colonies brought here for peopling the newly reclaimed Kerala. Such innovations of customs and manners were introduced among them that they may be alienated from their brethren in their native land.

“The most striking feature of dissimilarity is the position of the Kudumie,* which, with them, is on the crown of the head. Strong attachment to the land is the characteristic of the Travancoreans. A writer says that the Nair family or Tarawad consists of his uncles, brothers, sisters and sisters’ children owing to the loose nature of the marriage contract which is almost a necessity induced by the practice prevailing in Namburi families of only the eldest male members marrying, the others having to seek wives from this class.

“I cannot but point out for the edification of the above writer that the family consists of uncles, brothers, sisters, &c., not on account of the looseness of the marriage contract, but on account of the peculiar law of inheritance imposed on them by the sage Parasu Rama. They justly honor and reverence this law as it is of Divine Origin and as all other nations do with the laws which are sacred to them. The so-called marriage among Nairs is as sacred as it is to all other nations.

* Top-knot.

"Again this learned writer proceeds to say that no man is able to look upon his wife's children as his own and hence he centres his interest and his affection in the children of his sisters whom he regards his own.

"The above statement again is as absurd as anything could be. Every Travancorean looks upon his children as his own, as is done by all the other nations. A little more experience among the respectable families would have convinced the writer of the absurdity of his statement. In all respectable families, a father, during his life-time, gives enough to his children. He loves his children as his own and he is able to look upon them as his own. If there be any doubt, that doubt is common to all other nations. In most families, after the father's death, the wife and children receive maintenance from his Tarawad. After his death, heirs to his property and to his person after death are his Anandravars. They have the sole right to all property left by the Karanavan (both uncle and elder brother are included under this term) whether ancestral or self-acquired. The funeral obsequies are also performed by the heirs in preference to sons who also in most places perform such rites conjointly. This system of succession intended at first as an innovation upon the customs of foreign countries is defended on the score of its Divine origin having been imposed on them by Parasu Rama.

"Though his wants are few and those generally such as can be easily satisfied, the Nair cannot be said to be parsimonious in his expenses. The construction of a house and the marriage ceremonies (tying of Tâli) of his nieces and daughters are the engrossing cares of every respectable Nair and oftentimes exhaust the earnings of a life-long labor of a poor family.

"Every Nair girl must go through this ceremony at an early age. After the day and the auspicious hour for the marriage have been determined upon, the erection of the marriage pandal commences, the decoration of which is in cases of affluent families magnificent, and forms an important item of the marriage expenditure. On the day of the marriage the relatives, friends and neighbours having arrived, the Tâli is tied round the girl's neck at the auspicious moment accompanied by the usual complement of drums beating and musicians playing, amidst the deafening halloos of the assembled women. The invited party are then given betel and nut in the order of rank and importance, and treated to a rich and varied banquet. The ceremony lasts four days, but the period of mirth and rejoicing varies with the respectability of the family. The 'Tâli' is necessarily the badge of married life and does (*sic*) possess the importance which it has in the eyes of foreigners. The person who ties it on the girl's neck is not her husband and cannot claim to receive her favours in after life. The Tâli must be tied either by an Eliathoo, Tiruvapaud or Cholia Patter, if the girl is of a very respectable family, or by any member of their own kindred who are known as Yenangar or Machambis. The Tâli tier receives suitable presents at the conclusion of the ceremony, and in some cases becomes her husband. If not, when she attains the age of puberty, her parents or uncles choose for her a husband and she accepts him. In respectable families the selection is circumscribed by restrictions of rank, wealth and importance. Even in poor families, no one below their own class is chosen. In token of this alliance, the girl receives cloth from the man in a silver Tambalum at an auspicious hour, and this is done in the presence of relatives and neighbours. This is called the cloth-giving ceremony. The understanding thus brought about between the parties lasts to the end—in all respectable families dissolution being of very rare occurrence. In cases where they are unable to procure suitable husbands they have recourse to the Numboories. It is only in towns, and among the lower orders, that the girl herself chooses her own husband and dissolves the union at her or his pleasure.

"In some cases cloth-giving ceremony takes place before the girl attains her age of puberty in which case her husband conducts the ceremonies in connection with the latter. It is also at his expense that the Valakappu and Punkala ceremonies in the 7th month of her pregnancy are performed. Nothing of the customs and manners of the Sudras can be gathered from what takes place in such large towns as Trevandrum, Quilon, Alleppy, &c. In such places very few respectable families are seen. The great bulk of them live like the Numboories in

country parts. Only personal observation and local experience can enable a writer to write on their customs. It is therefore a matter of no great surprise that learned gentlemen should write on such subjects and draw their conclusions (which are laid down as applicable to the whole class irrespectably) from the life of the dregs of the population in the towns.

"If a Numboori gives cloth to a Nair girl the alliance is not dissolved at their pleasure, but only at the death of either of the parties. The issues by such a marriage are brought up, supported and educated by the Namboori father himself. He looks upon such children with pride and gives them sufficient property for their support. Circumstances may bring about dissolution of marriage among Nairs. But this is no uncommon thing in other countries also. Among Pandya Brahmins marriages are often dissolved. Innumerable instances may be cited if necessary.

"The prevailing practice among the Nairs is therefore not subject to criticism as is often done by those of other castes.

"Both men and women wear a piece of cotton cloth 4 or 5 cubits in length by 3 in breadth which is just enough to be wrapped round. The upper cloth of males is a Nariathoo which is generally tied round the head when they walk out. Their women do not generally cover their bosoms while at home, except in respectable families, nor do they do so outdoors in North Travancore. Civilization is steadily advancing from the south, the effects of which are clearly discernible in Trevandrum, there being not one Nair girl here who will walk out without an upper cloth.

* * * * *

"Malayala Sudras amount to 19 per cent. of the population. There are numerous sub-divisions among them, so nice and capricious that the men and women of one caste will not eat meals prepared by the members of another, nor sit for eating together in the same row, though there is no objection to eat in the presence of those of other castes."

* * * * *

EXTRACT FROM WIGRAM'S MALABAR LAW AND CUSTOM.

Edition 1882—page 3.

"All European writers, Lubbock, Mayr, McLennan and others agree in the conclusion that the system of inheritance in the female line prevalent among the Nairs could only have originated from a type of polyandry resembling free love. The ancient rule was that the woman should remain in her own house and be visited by her husband, and that the eldest female in the house should be the head of the house.

"Time has brought modifications in the system, and in Malabar, though not in Canara, the eldest female has given way to the eldest male.

"The wife sometimes has a separate house provided for her, where she lives with her husband. Perhaps no stronger argument could be adduced of the existence of polyandry among the Nairs in ancient times than the fact that to this day the term *Son of ten fathers* is used as a term of abuse among them."

(*Note.*—Another very common term of abuse used by Mappillas to Nairs is "*ârandé magané*"=nobody's child.—H. M. W.)

* * * * *

"But polyandry may now be said to be dead, and although the issue of a Nayar marriage are still children of their mother rather than of their father, marriage may be defined as a contract based on mutual consent and dissoluble at will. It has been well said that nowhere is the marriage tie, albeit informal, more rigidly observed or respected than it is in Malabar. Nowhere is it more jealously guarded or its neglect more savagely avenged.

"There are some who would argue that polyandry, if it ever did exist, was introduced by the Brahmans for their own selfish ends, and that the *Kaliyanam* ceremony which every Nayar girl performs before attaining her puberty, but which has no relation whatever to the real marriage, indicates a period when marriage was, as elsewhere in India, a religious institution.

"It seems to me that the *Kaliyanam* ceremony was probably introduced by the Brahmans. It is admittedly a mere formal ceremony. By it the so-called bridegroom incurs no liabilities and acquires no rights. I am quite ready to admit that, but for the Brahmans, all traces of polyandry would long since have disappeared, and that the Brahmans encouraged concubinage between the younger members of their family and the Nayar women for the purpose of maintaining the impartibility of their estates."

* * * * *

Page 5.—"The Sudras willingly submitted their females to the embraces of the Brahmans, and the custom of securing Brahmin husbands for the females of the Royal families and petty chieftains of Malabar, continues to the present day."

(Note.—Mr. Wigram was District Judge of South Malabar from 1875 to 1882.)

EXTRACT FROM REPORT ON IMPERIAL CENSUS OF 1881, BY LEWIS McIVOR, C.S., 1883.

Vol. I.—Page 257.

"It was at one time the fashion to deny the name of marriage to the unions of the Malabar Hindus, but a more intelligent appreciation of the facts has exploded that slander."

(Note.—Mr. McIvor never served in Malabar, and it is not apparent what facts, elicited by the Census, he considered to warrant the above courageous utterance.—H. M. W.)

EXTRACT FROM "THE MANUAL OF MADRAS ADMINISTRATION,"

BY C. D. MACLEANE, MUS. DOC., M.A., C.S.

Edition 1885, Pages (111) and (17).

* * * * *

(6). *The Nayars of the West Coast*.—This is the common appellation of the ordinary Dravidian middle class of Malabar. The greater portion of the land is in their hands. They hold most of the Government offices and they form the wealthy farmers, merchants and skilled artisans of the country. The reigning families of the West Coast are members of this caste. Nayar means lord, chief, or master. Amongst the Nayars there are several sub-divisions with their distinguishing titles and characteristics, and their respective gradations of caste pre-eminence. The Nayar customs with respect to marriage are of a most singular character. In early youth, the girl goes through the ceremony of marriage by having the "talee," or marriage cord, tied round her neck, but this is not followed by cohabitation. When arrived at a marriageable age, lovers present themselves, and the favoured person offers to the woman a cloth and other presents, and either resides with her, or visits her at intervals in her brother's house. This is called "giving a cloth and residing together" and is the only practical substitute for marriage amongst these people. The engagement is not binding upon either party longer than they choose and is readily dissolved. The woman is at liberty to dismiss the man, or the man to dismiss the woman, on easy terms. A settlement of accounts as to presents, expenses of the marriage, ornaments, &c., and a deed of separation drawn up and signed in the presence of four witnesses of the same caste dissolve the connection. Many of these alliances, however, are continued throughout life. This custom is evidently the survival of polyandry; a system first tolerated in the absence of a sufficient check on the woman, and then constituted

a national custom with the attendant consequences. From the marriage customs arises the law of inheritance or Maroomakatayam, mentioned several times in these volumes. The children of a Nayar woman inherit the property, or rights, not of their father, but of their mother's brother. They are their uncle's nearest heirs and he is their legal guardian. So it is also in the succession to the throne in reigning families. In conjunction however with the system of descent "ab utero" is that of the undivided family, so that although the woman's son inherits, he only inherits his share in that undivided family, in other words his right to maintenance. As a further result of these two customs combined, it follows that with the last female a family ceases to have the power of continuance and with the last male thereafter dies out. Escheats to Government frequently arise from this. The custom of polyandry itself is regularly practised by carpenters, stone masons, and individuals of other occupations. This is usually done amongst brothers. Several brothers living together are unable to support a wife for each and take one amongst them, who resides with them all. The children are reckoned to belong to each brother in succession, in the order of seniority. The peculiar usages of the Nayars give to their females considerable social influence and liberty of choice and action. Most of them know how to read and write. This class of people cherish a most tenacious attachment to their native locality and country and are rarely known to engage in travel or to migrate to other parts of India. They were once trained to the use of arm, carried a sword and shield and were noted as warriors. They are exceedingly able in the management of business affairs.

* * * * * * * *

Page (17).—The Nayars themselves are a remarkable body. In the Hindoo system they are classed as Soodras, though they rank immediately under the Brahmins, the intermediate classes being here wanting. Indeed they are manifestly equal in dignity with the Kshatriyas of North-Western India. Their most peculiar characteristic consists in the arrangement with regard to females. These are married at ten years of age and have an aliment transmitted to them by their husband (*sic*), whom they must not however see or hold intercourse with; a single instance of such connection would be considered scandalous. They reside with their mother, and after her death with their brother; they are allowed and regard it an honor, to attract as many lovers as possible, provided they be of equal or superior rank. It is thus considered a ridiculous question to ask a Nayar who is his father. The only real parentage rests with the brother of the wife, whose children are considered as belonging to him, and to whom all his property and titles are transmitted; for the sister's children must be in one degree consanguineous, while the wife's children may not be in any.

EXTRACT FROM THE IMPERIAL GAZETTEER OF INDIA.

BY W. W. HUNTER, C.S.I., C.I.E., LL.D.

Vol. IX—p. 227—Ed. 1886.

"The marriage customs of the Nairs are in many respects peculiar. For a long time it has been supposed that polyandry was a national practice among them; but a recent writer on Malabar law and custom asserts that although the issue of a Nair (Nayar) marriage are still children of their mother rather than of their father, polyandry is almost extinct, and marriage may be defined as a contract based on mutual consent and dissoluble at will. He states that it has died out in North Malabar, and only traces of it are found in South Malabar. It still survives in parts of Cochin and Travancore. In Malabar the form that exists is found only where Brahmin or Namburi influence is strong, namely, in Nedunganad or Cherpulsherri. Even there, no woman has more than two husbands; in Travancore she may have several. Formerly there was no difference as regards number between Native States and British Malabar, and a Malayalam drama is extant which describes with great humour the quarrels between the five husbands of a Nair lady in British Malabar and their subsequent reconciliation.

"Of such a woman the *tarwad* (or residence of all the descendants in the female line from a common ancestor) is the home. Here she receives any man she pleases, the only restriction being that her lover should not be of lower caste than her own. In British Malabar two brothers never marry the same woman—a connection thought not incestuous among the polyandrists of Tibet; neither may a man marry his deceased brother's wife on pain of expulsion from caste; nor may he marry two sisters. In North Malabar, the *tarwad* women generally live with their husbands throughout the year, only occasionally visiting their *tarwad* homes. In South Malabar, among the less wealthy families, the women live with their husbands for only half the year, spending the other half in the *tarwad* home. In the case of a Rájá or petty chief, the wife does not leave the *tarwad* at all. She is visited there by the husband. The Nairs maintain an extraordinary respect for relationship by descent through females. Caste excommunication would inevitably follow marriage between the children of sisters, or indeed between relations in the female line who are members of the same *tarwad*."

EXTRACT FROM "THE MALABAR MANUAL."

Ed. 1887.

By W. LOGAN, Esq., S.C.

(This Officer served in Malabar for over 20 years, and was Collector of the District for nearly 13 years.)

* * * * *

Page 134.—"The most characteristic custom of the Nayars is connected with their marriages. Every Nayar girl is married in one sense at a very early age. The *tali* is tied round her neck before she attains puberty, and is considered to be disgraceful in her relations not to have this ceremony performed before that event takes place. The tying of the *tali* is a great event in each household, and frequently several girls go through this ceremony simultaneously. When this can be managed it enables the family to make a greater display than they would probably be able to afford if there was a separate ceremony for each girl. The marriage pavilion is in the case of influential families very often magnificent in its decorations,—bright coloured rows of columns supporting gothic arched or Saracenic roofs, resplendent in tinsel and colours, with an extremely ingenious and pretty device of domes revolving slowly at intervals and showering down at appropriate moments sweet-smelling flowers on the guests and bridal party. The auspicious day and hour are carefully selected beforehand in consultation with the astrologers; friends, relations and neighbours all flock to the ceremony, and at the selected auspicious moment the *tali* is tied round the girl's neck amid much tom-tomming and shrill music accompanied by deafening shouts from the assembled people. Then follows the usual distribution of betel and areca nut, and the guests afterwards sit down to a banquet. The ceremony is prolonged over four days in the case of well-to-do families. The strange thing about it all is that the girl is not really married to the man who performs the *tali*-tying ceremony. In the case of good families the man selected for this duty is usually either an *Ilayattu*, or an east coast Brahman, and in the case of others a man of their own kindred. After the ceremony he receives a suitable present and departs. When the girl comes of age he cannot claim her as his wife, nor solicit her favours in afterlife.

"After attainment of the age of puberty the girl chooses her real husband of her own free will, though in this she is often guided by the opinions of her elders. The man she selects is called the '*Gunadóshakkáran*,' *gunam* being good and *dosham* being bad and *karan* being the doer. This designation may be exactly reproduced by the phrase from the English wedding service in which the mutual contract of the parties is 'for better for worse, for richer for poorer.' The ceremony of instalment of her husband is exceedingly simple. All that is necessary is that the husband should give, and that the girl should receive, a cloth in the presence of relations and friends. If the pair are dissatisfied with each other the woman,

in like simple fashion, returns the cloth and their connection thereupon ends. Sometimes a woman accepts the favours of many lovers, but this is generally now-a-days scouted by all respectable people, and the fashion is daily becoming more and more prevalent for the woman to leave her ancestral home for that of the husband of her choice, although, as matter of law, the husband occupies no recognized legal relation involving rights and responsibilities in regard either to his wife or his children.

"The statement that the younger cadets of *Nambútiri* families live with Nayar women merely reproduces in English the Malayali mode of describing the married life of these people and of the Nayars. It is part of the theory that the women they live with are not wives, that they may part at will, that they may form new connections. This part of the Malabar law has, in the hands of unenquiring commentators, brought much undeserved obloquy on the morality of the people. The fact, at any rate of recent years, is that, although the theory of the law sanctions freedom in these relations, conjugal fidelity is very general. Nowhere is the marriage tie—albeit informal—more rigidly observed, or respected, nowhere is it more jealously guarded, or its neglect more savagely avenged. The very looseness of the law makes the individual observance closer; for people have more watchful care over the things they are most liable to lose. The absence of ceremonial has encouraged the popular impression; but ceremonial, like other conventionalities, is an accident, and Nayar women are as chaste and faithful as their neighbours, just as they are as modest as their neighbours although their national costume does not include some of the details required by conventional notions of modesty.

"In former times, however, there was perhaps a better foundation for the popular impression. One Sheik Zin-ud-din, the author of a work which in a more or less abridged shape has a large circulation, chiefly in manuscript, in Malabar, noticed the Nayar custom of marriage as one which they possessed distinguishing them from other races. He wrote about the middle and latter half of the sixteenth century. He seems to have had exceptionally good opportunities for observing facts. He said that each women had two or four men who cohabited with her, and the men, he said, 'seldom' quarrelled, the women distributing her time among her husbands just as a Muhammadan distributes his time among his women. Hamilton, too, in his 'New account of the East Indies' (Edinburgh, 1727) wrote:—"The husbands' of whom, he said, there might be twelve, but no more at one time, 'agree very well, for they cohabit with her in their turns, according to their priority of marriage, ten days, more or less according as they can fix a term among themselves, and he that cohabits with her maintains her in all things necessary for his time, so that she is plentifully provided for by a constant circulation.' 'When the man that cohabits with her goes into her house, he leaves his arms at the door, and none dare remove them or enter the house on pain of death.' When she proves with child she nominates its father, who takes care of his Education, after she has suckled it, and brought it to walk or speak, but the children are never heirs to their father's estate, but the father's sisters' children are."

* * * * *

Page 143.—"In North Malabar the caste (Tiyar) generally follows the *Marumak-katáyam* system of inheritance, while in South Malabar the descent of property is generally from father to son. Not unfrequently, however, two brothers, or more even, marry one wife. If she have but one son the child is fathered on the elder brother.

"Both men and women of the North Malabar caste are remarkably neat in appearance, although, like the *Nayars*, their clothing both of men and women, is extremely scanty; and they are besides extremely careful as to personal cleanliness. The head-quarters of the caste may be said to lie at and round the ancient European settlements of the French at Mahé, and of the English at Tellicherry. The women are not as a rule excommunicated if they live with Europeans, and the consequence is that there has been among them a large admixture of European blood, and the caste itself has been materially raised in the social scale. In ap-

pearance, some of the women are almost as fair as Europeans, and it may be said in a general way that to a European eye the best favoured men and women to be found in the districts are the inhabitants of ancient Kadattunâd, Iruvalinâd and Kottayam, of whom a large proportion belong to the *Tiyan* or planting community.

"In the facility of their marriage relations they differ but little from the *Nayars*, but with them the real marriage ceremony is much more formal. It is usual for the girl to have her *tali* tied, as in the *Nayar* caste, before attaining the age of puberty, but the system of having the *tali* tied by the man who is to be her future husband is always resorted to when a suitable husband can be found before the girl attains to that age. At the betrothal ceremony, which is managed by two relatives and by a *Tandân* (headman or priest) on each side, the bridegroom's party tender payment of four fanams, apparently for the food they have partaken, and then five-and-a-quarter rupees in cash and two new pieces of cloth as an *adayilam*, or mark, or sign of the conclusion of the bargain. At the end of this part of the proceedings the groom's *Tandân* gives to the bride's *Tandân* two betel leaves with the remark, 'We shall be coming for the marriage with a party of so many on such and such a date,' to which the bride's *Tandân* replies, 'If you satisfy our claims with (say) ten-and-a-half rupees in cash and six pieces of new cloth and two fanams for uncle's son, we shall hand over the girl to you.' The allusion here to 'uncle's son' will be explained presently.

"Before the wedding day the bridegroom goes and visits all his relations accompanied by five women all well clad and bedecked. If he accepts food in any house it is a sign that the inmates are invited to the wedding.

"The bridegroom with his relations and friends sets out for the bride's house on the wedding day on observing a favourable omen. He goes accompanied by two other youths dressed exactly like himself, and with others of his male relations and friends armed with swords and targets playing in front of him. On arrival at the wedding pavilion the bride's *Tandân* wisely collects the swords and keeps them in his own charge. The three youths dressed exactly alike sit together and have rice strewn over them in common. The bridegroom's sister brings in the bride and seats her behind the groom; the other female relatives stand behind, and the bride's mother is conspicuous in a special red cloth thrown over her shoulders. If the bride has not already had *tali* tied, the groom now puts it round her neck, and his sister ties it at the auspicious moment pronounced by the astrologer present for that purpose. After this the bride moves back to her seat behind the groom, and the groom's sister then asks permission of the assembly to pay the bride's price (*Kanam*), and the bride's mother then, in similar fashion, seeks permission to receive at her hands the cloths and ten-and-a-half rupees in cash.

"The groom and his two groomsmen are then served with food, &c., which they in dumb show pretend to take, and at the conclusion of this they rise up and march straight home with the bride, who must be held by the groom's sister all the way.

"As they step out of the wedding pavilion they are met by *Machchûn* or 'uncle's son,' prepared to contest with them for the bride as prize, he having, according to *Marumakkatâyam* ideas, a better claim to her than anyone else. It is on this account that the two groomsmen are dressed up like the groom himself in order to puzzle the *Machchûn* at the juncture as to who's who. The *Machchûn*'s claims are bought off with the two fanams brought for the purpose, and he in turn presents betel leaf in token of conciliation. On reaching the bridegroom's house the bride and groom must enter the door placing their right feet simultaneously on the door step. The feasting is kept up for two days at the groom's home and for two more days at the bride's, the parties assisting each other and also making presents to the couple."

EXTRACT FROM "HINDU LAW AND USAGE."

By JOHN D. MAYNE, Esq., *Barrister-at-Law*.*(Fourth Edition—1888.)**Preface—page XI—dated 1878.*

* * * * *

"Even in Malabar I have witnessed continued efforts on the part of the natives to cast off their own customs and to deal with their property by partition, alienation and devise, as if it were governed by the ordinary Hindu Law. These efforts were constantly successful in the provincial courts, but were invariably foiled on appeal to the Sudder Court at Madras, the objection being frequently taken for the first time by an English barrister. It so happened that during the whole time of this silent revolt, the Sudder Court possessed one or more judges, who were thoroughly acquainted with Malabar customs and by whom cases from the District were invariably heard. Had the court been without such special experience, the process would probably have gone on with such rapidity, that, by this time every Malabar *tarwad* would have been broken up. The revolt would have been a revolution."

* * * * *

Page 226—"I have been told that fidelity to a single husband is becoming common among the Nair women of the better class. And it is certain that the Malabar *tarwads* would long since have broken up into families, each headed by a male, if our courts had allowed them to do so."

EXTRACT FROM "PRIMITIVE FAMILY."

By C. N. STARKE—1889.

Speaking of the Nairs, he says (page 83) "as soon as a girl is marriageable, the mother invites her kinsfolk and friends and presents herself with her daughter, arrayed in all her ornaments. She asks whether any one is willing to marry the girl and if a suitor is found the wedding is solemnized with great splendour.

"The chief ceremony consists in winding a silken cord to which a coin worth about two shillings is attached, round the necks of both, and the bridegroom then hangs the coin round the bride's throat. He is then entitled, if so disposed, and if he is not too nearly related to the girl, to regard her as his wife for the space of one day; but thenceforward they see no more of each other than if no such union had taken place. He may have love passages in many houses: she chooses two, four even as many as twelve husbands, on whom she bestows her favours and receives in return small gifts for herself and her mother. Each lover remains at her command for 24 hours, and he must make himself useful to her during this period by fetching wood and the like, and he also enjoys the rights of a husband. Both parties are free to break off the connection without ceremony and divorces are very frequent. The paternity of every Nair is unknown."

(Note.—The authorities quoted by the author for the above details are Buchanan, vol. ii, page 412, and Bachofen's *Antiquarische Briefe*, vol. i, chapters 28—30.)

He goes on to say:—"It is impossible not to regard the ceremony by which a girl is dedicated to what is according to our ideas an unchaste life, as a wedding ceremony which has been degraded into a mere formality."

M. ELIE RECLUS, author of a work on comparative ethnology termed "*Primitive Folk*," (The Contemporary Science Series) devotes a whole chapter, of over 30 pages, to the Nairs.

Much of the matter seems to be drawn from the abundant spring of a lively imagination, but it is interesting to have the views of a French author on Nair customs, even if the authority for his facts is not always apparent.

M. Reclus says, (page 162):—"Until now, we have believed the joys of paternity the sweetest and deepest of all delights. Here are men to whom they are unknown. We have believed paternal love a natural feeling: it is merely an acquired idea. Marriage, elsewhere, is or has been the taking possession of the woman by the man. The custom of Malabar (known as the Marrou Mokatayoum) is an exception to the rule; the nuptials are here interposed only to emancipate the woman, and introduce her into the world. She takes a master to gain independence; with the contract of servitude in her hand, she acquires personal liberty. Provided she wears her *tali* round her neck, she is free of conjugal bonds.

"It is not the first time that a symbol has been seen to transform itself into its opposite, an institution that has changed its nature and reversed its significance.

"The emancipated wife lives with her mother, or at a pinch with one of her brothers, unless she prefers to set up house-keeping for herself. She intends to lead a merry life and unite herself with whom she pleases, except with her lawful husband. That would be a slip for which public opinion would never pardon her. The first introductions are made by her mother and maternal uncle, her two protectors. In the North of Malayalam, which has advanced further towards the paternal family, it is not considered suitable for one lady to have more than one gallant at a time. But in the South, the customs of which I am more especially describing, the more admirers a woman has the more she is esteemed—four, five, six, seven; but not more than ten, or twelve. Everything has its limits. Reciprocal propriety demands that each shall be privileged guest for twenty-four hours, a week, a decade, or half a decade. Does the king of the hour desire to keep away visitors, to be rid of intruders? He hangs up his shield at the door or sticks his sword, or his knife there.—THEVENOT, *Voyage V.*—Every one knows what is meant.

"And what is to be done beyond the service of the queen? What one pleases. A man on duty for the week in one group is free to solicit the same office in any others; he presents himself, is accepted or refused, goes and comes, departs and returns. Where there is restraint there is no pleasure. The share-holders in these companies of floating capital contribute each man his quota towards the expenses of the establishment."

* * * * *

If a woman is at liberty to have her dozen of cavaliers, the cavaliers in their turn are free to have as many mistresses, amongst whom they share their stock of clothing, arms, horses (*sic*) and personal possessions. When a girl returns to her favourite, a robe with which he has presented her, he understands that his visits are to cease, and seeks his fortunes elsewhere.

* * * * *

"Thus each woman is the wife of several men, each of whom has in his turn several mistresses."

After narrating the fable "how the plains at the foot of the ghauts emerged from the sea at the command of Vishnu, who bequeathed them to his friends the Brahmins," M. Reclus proceeds:—

"But how might this lofty aristocracy (the Brahmins) unite itself to Nairs, scarcely worthy to humbly kiss its hands?"

* * * * *

"The law of Manu enjoined upon every pious man the duty of having a son, that the males of his ancestors might be sustained by funeral sacrifices. The law does not enjoin several children, but permits them, saying that the younger ones are the issue not of duty but of pleasure.

"Well, our holy men, (the Malabar Nambudris) have devoted this supererogatory progeny to the salvation of the inferior classes. As the transmission of the priestly office is from the first born to the first born, they marry the eldest son according to the sacred rites. As for the younger sons they do not perpetuate the race, do not enter into 'lawful marriage,' but are good enough to contract temporary unions with 'strange women'; they honor some few daughters of the inferior race with their benevolence.

"A Brahmin will give offspring to a Nair woman; never a Nair to a daughter of the Brahmins.

"Great families would believe their importance impaired if each generation did not bring them an influx of consecrated blood. Gratefully, they accept of the services of junior priests, sons-in-law who come to furnish well-endowed uncles with heirs."

* * * * *

"Pedro Cabral recounts that at Calicut each of the two royal consorts received the attentions of ten Brahmins; a smaller number would have been beneath the royal dignity."

* * * * *

"Here the whole population solicits the Cuckoo. After the lesser nobility, village chiefs put in a claim, large proprietors will not be forgotten, still less the wealthy middle class. The men of God do what they can; it is enough."

* * * * *

"One of these Brahmins complained to Missionary Weitbrecht of having no less than ten wives on his hands."

* * * * *

"It was thus that the Brahmins continued to dominate, by means of religion, a people who had nevertheless succeeded in throwing off their political yoke. Their sons are princes; their bastards hold the royal sceptre."

(True Extracts.)

H. M. WINTERBOTHAM,

Collector of Malabar,

On Special Duty.

APPENDIX II
REPORT
MALABAR MARRIAGE COMMISSION
(List of 474 persons to whom interrogatories were sent)

APPENDIX II.

TO THE

REPORT

OF THE

MALABAR MARRIAGE COMMISSION.

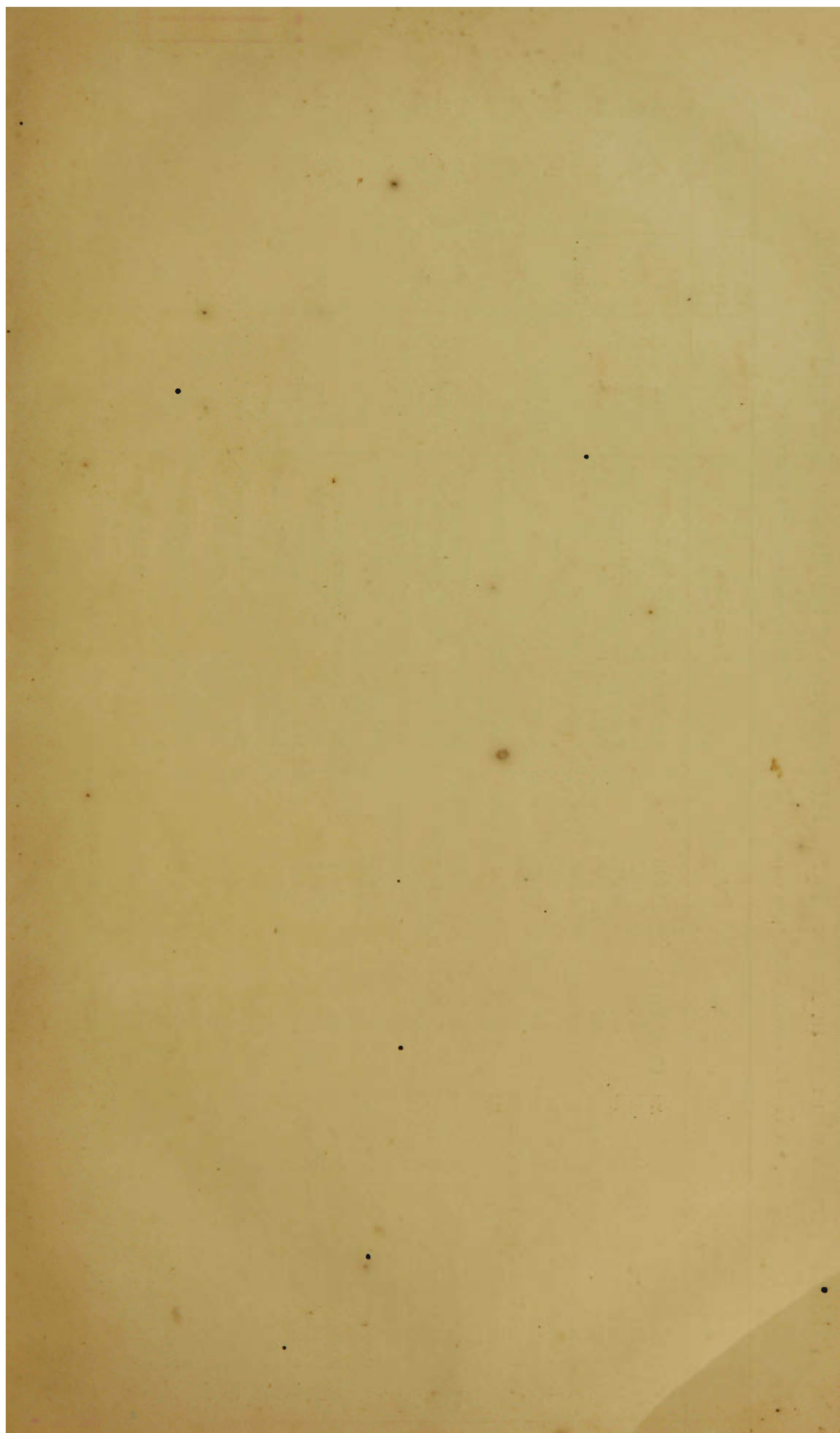
(List of 474 persons to whom Interrogatories were sent.)

APPENDIX II

REPORT

MALIBU MARITIME COMMISSION

Part of the report is a list of the names of the



List of persons who sent in Answers to the Interrogatories of the Malabar Marriage Commission.

* Note.—The asterisk denotes that the individual was also examined in person before the Commission.

Serial No.	Name.	Taluk.	Amsam.	Description.	Caste.	Whether answers printed.	REMARKS.
1	Oyiti Raman	Chirakkal	Puzhāthi	Pensioned Tahsildar	Tiyan.		Witness No. 49.
2	*Mānikkōth Kannan Nambiar	do.	Azhikōd	Law Student	Nayar.		
3	Kottiath Choyi	do.	Puzhāthi	Municipal Councillor, Cannanore	Tiyan.		
4	*M. A. Kunhi Kēlappan Mannanār.	do.	Kanhilēri	Stāni and Janmi	do.		do. 40.
5	Kāriyan Rāmuni	do.	Puzhāthi	Pensioned Tahsildar	do.	Printed.	
6	Rayimangalath Sridharan Thirumumbu	do.	Erāmam	Janmi	Brahman		
7	Vārikkarē Padinhārē Vīttil Chandu Nayar	do.	Kunhimangalam	Janmi: Tellicherry Taluk Board Member			
8	*Kottiath Rāmuni	do.	Puzhāthi	1st Grade Pleader, Tellicherry	Nayar.	do.	do. 1.
9	*T. Rama Poduvāl	do.	Taliparamba	2nd Grade Pleader, Taliparamba	Tiyan.	do.	do. 38.
10	*P. Kunhampu	do.	Puzhāthi	do. Cannanore	Ambalavāsi.	do.	do. 26.
11	V. P. Kannan Nayar	do.	Kunhimangalam	do. Taliparamba	Tiyan.		
12	M. Krishnan B.A.	do.	Puzhāthi	Malayalam Munshi, Presidency College, Madras	Nayar.		
13	U. P. Dāmōdaran	do.	do.	Sub-Registrar, Tameracherri	Tiyan.		
14	*T. V. Anantan Nayar B.A. B.L.	do.	Azhikōd	District Munsiff, Parappanangādi	do.		
15	K. Raman	do.	Pālayād	Police Inspector, Cannanore	Nayar.	do.	do. 44.
16	K. Raman	do.	Puzhāthi	Head Constable in charge of Land Customs, Mahe	Tiyan.		
17	T. Govindan	do.	do.	Deputy Tahsildar, Kuthuparamba.	do.		
18	O. Rāmuni	do.	do.	Sea Customs Superintendent, Badagara	do.		
19	K. Raman	do.	do.	Deputy Tahsildar, Tangacheri	do.		
20	T. Kunhambu	do.	do.	Tahsildar, Ponnani	do.	do.	
21	*A. Chandu Nambiyar	do.	Azhikōd	Deputy Tahsildar, Betatpudiyan-gādi	do.		
22	*M. Sankara Mārār	do.	Puzhāthi	2nd Grade Pleader, Cannanore	Nayar.		do. 24.
					Ambalavāsi		

23	Várikaré Vadakké Víttil Chandu Nayar	Chirakkal	...	...	Janmi	...	Nayar.	...	do.	36.
24	Kannada Chirukandan	do.	... Kunhimangalam...	...	Tenant Farmer	...	Tiyan.	...		
25	P. Kunhi Raman	do.	... Vellár	...	Ag. Inspector of Post Offices, Cannanore Sub-Division	...	do.	...		
26	*Valiya Víttil Raman Márár	do.	... Puzháthi	...	Tenant Farmer	...	Ambalavási.	...		
27	Padinyáredáthil Chindan Nambiyar Kaimal	do.	... Malappattam	...	...	...	...	...		
28	Tayil Kélu Nayar	do.	... Kuttéri	...	Stáni and Janmi	...	Nayar.	...		
29	Tayil Chirukandan	do.	... Pallikunnu	...	Janmi	...	do.	...		
30	Chirakkal Kóvilagath Kérala Varma Valiya Rajah	do.	... Puzháthi	...	Vakil, Munsiff's Court, Cannanore.	...	Tiyan.	...		
31	Ondén Raman	do.	... Chirakkal	...	Head of the Chirakkal Kóvilagam.	...	Kshatriyan.	...		
32	*Áyilliath Kuttiyéri Anandan Nambiyar	do.	... Puzháthi	...	Sheristadar, Chirakkal Taluk	...	Tiyan.	...		
33	*Mayil Mánikkóth Kómar Nambiyar.	do.	... Irivéri	...	Janmi and Adhikári	...	Nayar.	...	27.	
34	Vadakkumpát Kuppátakkan Kammaran Nayar	do.	... Kayaralam	...	Adhikári and Janmi	...	do.	...	29.	
35	*Kotiyath Káráthán Kóran Vaidiyar.	do.	... Kunhimangalam...	...	Janmi	...	do.	...	28.	
36	*Veugayil Kannan Nayar	do.	... Anjarakkandi	...	Physician	...	Tiyan.	...	34.	
37	*Manikkóth Krishnan Nambiyar	do.	... Kuttár	...	Land-Lord	...	Nayar.	...	35.	
38	*Payyanúr Kunuath Manayil Subramanian Thirumumbu	do.	... Kuttiyáttur	...	Janmi	...	do.	...		
39	Cheticheri Tházhathidathil Othenan Nambiyar	do.	... Payyanúr	...	do.	...	Brahman.	...	25.	
40	Kalliyát Kammaran Nambiyar	do.	... Malappattam	...	Stáni and Janmi	...	Nayar.	...		
41	*Erumpála Kammaran Nambiyar	do.	... Kalliyát	...	Janmi	...	do.	...		
42	Kunniánkandi Kunyambu	do.	... Kalliyásseri	...	do.	...	do.	...		
43	T. Kunhi Raman Nayar	do.	... Puzháthi	...	Large Tenant Farmer	...	Tiyan.	...		
44	Véngayil K. Raman Nayar	do.	... Azhikkód	...	Judge, High Court, Trevandrum.	...	Nayar.	...	41.	
45	Kadánkoden Edayankara Víttil Paithal Nambiyar	do.	... Kuttár	...	Land-Lord (Anandaravan)	...	do.	...		
46	Kunhimangalath Manayil Subramanian Thirumumbu	do.	... Cherukunnu	...	Janmi	...	do.	...		
47	V. Rairu Nambiyar B.A. B.L.,	do.	... Payyanúr	...	do.	...	Brahman.	...		
48	M. C. Andy.	do.	... Mavilayi	...	High Court Vakeel	...	Nayar.	...		
		do.	... Puzháthi	...	Revenue Inspector, Kottayam	...	Mukkuvan.	...		

Serial No.	Name.	Taluk.	Amsam.	Description.	Caste.	Whether answers printed.	REMARKS.
49	* Kôroth Ramunni	Kôttayam	Tellicherry	Retired Vakeel : Municipal Councillor, Tellicherry	Tiyan.		Witness No. 3.
50	* Kallât Râmunni	do.	do.	Private means: Member of Taluk and District Board	do.		do. 10.
51	* Manakkâdan Kunyambu	do.	Kadirûr	Janmi, and Gurukkal (an "elder" amongst the Tiyan)	do.		do. 6.
52	* Manakkâdan Râmunni	do.	Tiruvangad	Petition writer and head of Tarawâd	do.		do. 18.
53	* Kôroth Kannan	do.	Tellicherry	1st Grade Pleader, Tellicherry	do.		do. 4.
54	* P. Raman B. A., B. L.	do.	Kôttayam	High Court Vakeel, Tellicherry	do.		do. 15.
55	M. Othena Menon	do.	Nittûr	Sub-Registrar, Payyoli	Nayar.	Printed.	
56	V. Krishna Menon	do.	Tiruvangad	Sub-Registrar, Pânur	do.		
57	C. Kannan L. M. S.	do.	do.	Civil Apothecary, Manjêri	Tiyan.		
58	* E. K. Krishnan B. L.	do.	Kôttayam	Sub-Judge, Calicut	do.	do.	58.
59	K. Raman	do.	Anjarakkandi	Revenue Inspector, Kurumbranâd.	do.		
60	A. C. Kannan Nayar	do.	Tiruvangad	Sea Custom Superintendent, Kallai.	Nayar.		
61	M. Ramotti	do.	Kadirûr	Revenue Inspector, Chirakkal	Tiyan.		
62	C. K. Govindan	do.	Tellicherry	Tahsildar, Kôttayam Taluk	do.		
63	P. V. Sankara Menon	do.	Pinarâyi	Sheristadar, Palghaut Taluk	Nayar.		
64	C. Choyi	do.	Tiruvangad	Revenue Inspector, Chirakkal	Tiyan.		
65	Mêluttîl Kunhi Kannan Gurukkal...	do.	do.	Tiyan "Elder"	do.		
66	Pulleri Illath Kunyambu <i>alias</i> Késavan Tungal	do.	Pazhassi	Stâni and Janmi	Nayar.		
67	A. K. Krishnan	do.	Tiruvangad	Asstt. Superintendent of Sea Customs, Tellicherry	Tiyan.		5.
68	* Mâdâvil Râmunni Vaidiyar	do.	do.	Janmi (Anandaravan)	Nayar.		
69	Nârangoli Chirakkal Kunhi Sankaran <i>alias</i> Valiya Nambiyar	do.	Peringalam	Stâni and Janmi	do.		
70	V. K. Kunhambu Nambiyar	do.	Tellicherry	District Board Member	do.		
71	Akkara Vîttîl Kunhi Raman Nayar.	do.	Tiruvangad	Janmi	do.		
72	* Ningillêri Kunhambu Nambiyar	do.	Kandamkundu	Janmi, and Adhikari of the Amsam.	do.		12.
73	Kûâtâli Thâzhath Kunyi Râman Nambiyar	do.	Kûtali	Janmi	do.		

74	*Kaithéri Edathil Kôlasseri Kunhi Kannan Nambiyar	...	Kôttayam	...	Nittûr	...	Janmi	...	Nayar.	do.	11.
75	*Kîzhur Edathil Kunhi Raman Vâzhunnavar	...	do.	...	Veliyambra	...	Stâni and Janmi	...	Sâmantan.	do.	8.
76	Kuvukkal Krishnan Nayar	...	do.	...	Tiruvangad	...	Janmi	...	Nayar.	do.	
77	Nîrvêli Manniyath Jayanthan Bhattathiripâd	...	do.	...	Kandamkundu	...	Janmi	...	Brahman.	do.	
78	*V. P. Kunhambu	...	do.	...	Pinarayi	...	2nd Grade Pleader, and Municipal Councillor, Tellicherry	...	Tiyan.	do.	13.
79	*Kanakathidathil Krishnan Vâzhunnavar	...	do.	...	Gannavam	...	Stâni and Janmi	...	Sâmantan.	do.	14.
80	*Mânikkath Kêlan Gurukkal	...	do.	...	Mailanjanmam	...	Tiyan "Elder"	...	Tiyan.	do.	20.
81	*Kunhamvîtil Raman Nayar	...	do.	...	Sivapuram	...	Janmi and Adhikari of Sivapuram.	...	Nayar.	do.	19.
82	*Payyanâdan Kunhi Kannan	...	do.	...	Dharmatam	...	Janmi	...	Tiyan.	do.	21.
83	*K. Krishnan	...	do.	...	Tellicherry	...	Sub Registrar, Cannanore	...	do.	do.	23.
84	Pattarath Valiya Raman Adiody	...	do.	...	Nittûr	...	Janmi	...	Nayar.	do.	
85	Kurungod Edathil Kunhi Chattu, alias Valiya Nayar	...	do.	...	Olavilam	...	Janmi	...	do.	do.	
86	Kakkuzhi Bappu	...	do.	...	Tellicherry	...	Municipal Councillor, Tellicherry	...	Tiyan.	do.	
87	P. Sukumâran	...	do.	...	do.	...	3rd Clerk, Sub-Collector's Office	...	do.	do.	
88	Ponmilêri Kôrôth Chandu Nambiyar	...	do.	...	Paduvilayi	...	Janmi and Adhikari of the Amsam.	...	Nayar.	do.	
89	Thekke Illath Pônêri Padmanâbhan Nambûdiri	...	do.	...	Triprangôtur	...	Janmi	...	Brahman.	do.	
90	A. Châthu	...	do.	...	Tellicherry	...	Huzur Sheristadar	...	Tiyan.	do.	
91	T. Kanaran, B. A.	...	do.	...	Mailanjanmam	...	Head Master, Basel Mission High School, Tellicherry	...	do.	do.	
92	Pâchali Châthu	...	do.	...	Peringalam	...	Private individual	...	do.	do.	
93	A. Châthu Nambiyar	...	do.	...	Nittûr	...	District Munsiff, Nâdâpuram	...	Nayar.	do.	
94	K. Ramunni Kurup	...	do.	...	do.	...	Sub-Registrar, Pânur	...	do.	do.	
95	Kannan Menon	...	do.	...	do.	...	Rev. Inspector, Kurumbranad	...	do.	do.	
96	*A. Narayanan Nambiyar B. A., B. L.	...	do.	...	do.	...	High Court Vakeel practising at Tellicherry	...	do.	do.	9.
97	*Pûvâdan Cheria Raman	...	do.	...	Mailanjanmam	...	2nd Grade Pleader, Cannanore	...	Tiyan.	do.	22.
98	*A. C. Kannan Nambiyar	...	do.	...	Tellicherry	...	District Munsiff, Badagara	...	Nayar.	do.	50.

Serial No.	Name.	Taluk.	Amsam.	Description.	Caste.	Whether answers printed.	REMARKS.
99	Kāliyambath Kunhi Kannan Nayar.	Kurumbranād	Viyūr	Kāriastan, Zamorin's Palace	Nayar.		
100	Ambrōli Anantan Vayidiar	do.	do.	Janmi and Physician	do.		
101	Mangūttil Chāthu Kutti Nayar	do.	Mūdādi	Janmi	do.		
102	Vayatāttil Chāthu Nambiyar	do.	Iringanur	do.	do.		
103	K. Impichunni Nayar	do.	Chémanchêri	1st Grade Pleader, Tellicherry	do.	Printed.	
104	E. Ambu Nayar	do.	Viyūr	Sub Registrar, Ponnani	do.	do.	
105	M. C. Kannan Nambiyar B. A.	do.	Vellūr	Hd. Master, Municipal High School, Cannanore.	do.		
106	*C. Chāthu Nayar	do.	Pallikkara	Malayalam Pandit, Government College, Calicut	do.		Witness No. 69.
107	K. Rāmuni Menon	do.	Viyūr	Deputy Tahsildar, Cannanore	do.		
108	K. V. Chāppunni Nayar	do.	Pāleri	Sheristadar, Ponnani Taluk	do.		
109	M. Rāmar Nambiyar	do.	Iringanūr	Revenue Inspector, Kurumbranād Taluk	do.	do.	
110	T. C. Ryru Kurup	do.	Azhiyūr	District Registrar, Chingleput	do.		
111	*Tirumangalath Krishna Kurup	do.	do.	Janmi	do.		do.
112	Kōttayāt Kōvilagath Cheriyyunni alias Udayavarman Tangal	do.	Puthuppanam	Stāni and Janmi	Sāmantan.		47.
113	P. K. Kēlappa Kurup B. A., B. L.	do.	Mūdādi	High Court Vakeel, Tellicherry	Nayar.		
114	Vilangil Rama Kurup	do.	Pālayat	Janmi	do.		
115	Payormala Vallabhan Chāthan Raman alias Kūthāli Nayar	do.	Perambra	Janmi, and Stāni	do.		
116	T. Krishna Kurup B. A.	do.	Azhiyūr	Law Student, Madras.	do.		
117	Palliyl Kannan Kidāvu	do.	Naduvannur	Janmi	do.		
118	Kalpathūr Raman Nayar	do.	Perambra	do.	do.		
119	Ayanchêri Kōvilagath Krishna Varma Raja	do.	Puramêri	3rd Rajah of Kadathanād	Sāmantan.	do.	
120	K. Krishna Kurup B. A., B. L.	do.	Ayancheri	High Court Vakeel, Tellicherry	Nayar.	do.	
121	Vēngi Kunyunni Kidāvu	do.	Kārayad	Janmi	do.		
122	Kadathanād Edavalath Kōvilagath Ravi Varma Raja	do.	Puramêri	Head of a branch of the Kadathanād Kōvilagam	Sāmantan.	do.	

Serial No.	Name.	Taluk.	Amsam.	Description.	Caste.	Whether answers printed.	REMARKS.
145	Pālamōli Nellippanam Vīttil Chēn- nan Nayar	Calicut	...	Janmi	Nayar.	...	
146	Padinhāre Kōvilagath Valiya Raja.	do.	Tāmercherri Valayanād	Head of a branch of the Zamorin's family.	...	Printed	
147	*Erambapalli Kunjunn Nayar	do.	Cheruvannur	Janmi: Honorary Magistrate, Calicut	Sāmantan		Witness No. 57.
148	Katayat Rāman Menon	do.	Panniankara	Janmi	Nayar.		
149	Pālakkal Rāman Menon	do.	do.	do.	do.		
150	Kōzhipurath Kēlu Menon	do.	do.	do.	do.		
151	Karumathil Pokkāvil Karunākara Menon	do.	do.	do.	do.		
152	Chāthanath Govindan Nambūdīri...	do.	Tāmercherri	do.	Brahman.		
153	Mallisherī Ramunni Erādi	do.	Makkāda	do.	Nayar.		Wants 4 years' time to send in his answers.
154	Pāderī Krishnan Nambudripād	do.	Kunnamangalam	do.	Brahman.		
155	T. M. Appu Nedungādi B.A., B.L.	do.	Valayanād	1st Grade Pleader, Calicut	Sāmantan.		
156	B. Kamāran Menon	do.	Kasba	2nd Grade Pleader, Calicut	Nayar.		
157	K. Rāmuni Menon	do.	do.	1st Grade Pleader, Calicut	do.		
158	B. Narāyanan Nayar	do.	Katchēri	Sub Registrar, Alatur	do.		
159	C. Gopāla Menon B.A.	do.	Valayanād	Asst. Master, Mission High School, Calicut	do.		
160	*B. Kamāren Nayar	do.	Kasba	District Munsiff, Chāvakkād	do.	do.	Witness No. 65.
161	V. Kēlu Erādi	do.	do.	do. Payyanād	do.	do.	
162	C. P. Rāman Menon	do.	Panniankara	Translator, High Court	Sāmantan.		
163	C. Rāman Nayar	do.	Katchēri	Inspector of Police, Cherpalcherri.	Nayar.		
164	B. K. Mādhavan Nambiyar	do.	Kasba	Sheristadar, Calicut Taluk	do.	do.	
165	P. Gopāla Menon	do.	Valayanād	Vernacular Record Keeper, Huzur.	do.		
166	K. P. Rāman Menon	do.	Panniankara	Sea Custom Supdt., Tānūr	do.		
167	V. Rāman Menon	do.	do.	District Munsiff, Kawai	do.		
168	C. Gopāla Menon	do.	Valayanād	Record Keeper, District Court, Calicut	do.		
169	K. Vāsudēvan Nambūdīri	do.	Kōttuli	Janmi	Brahman.		
170	Ēttan Raja, Padinhāre Kōvilagam.	do.	Valayanād	A Sanskrit scholar and belongs to the Zamorin's family	Sāmantan.	do.	
171	V. K. Rāman Menon B.A., B.L.	do.	Panniankara	High Court Vakeel, Calicut	Nayar.		

172	Kâramvelli Kunhunni Kurup	Calicut	...	Makkada	...	Janmi & Honry. Magistrate Calicut.	Nayar	Printed	61.
173	*Makkat Vâsudêvan Nambûdiri	do.	...	Koduvalli	...	Janmi	Brahman.	do.	
174	The Zamorin Maharaja Bahadur	do.	...	Paniankara	...	Zamorin of Calicut	Sâmantan	do.	
175	P. Govinda Menon B.A.	do.	...	do.	...	Deputy Supt., Census operations, Calicut	Nayar.	do.	
176	*C. Kunhi Raman Menon B.A.	do.	...	Kasba	...	Editor "Kêrâla Patrika"	do.	do.	75.
177	Nambanûr Azhakîl Unni Nayar	do.	...	Kârannur	...	Janmi	do.		
178	Kizhakkêpat Rârappunni Nayar	do.	...	Beyepore	...	do.	do.		
179	K. Kôman Nayar B.A.	do.	...	Katchêri	...	Sub-Registrar, Kundotti	do.		
180	Êrâlpâd or Elaya Raja of Calicut...	Ernâd	...	Kôttakkal	...	Second Raja of Calicut	Sâmantan.	do.	
181	*Môngandampulath Nârâyanan Mûs-								
182	sad <i>alias</i> Tenayanchêri Elayad...	do.	...	Vallikunnu	...	Land Lord	Brahman.	do.	81.
	*Pûthêri Velâyuden Nair	do.	...	Nallûr	...	Malapuram Taluk Board member			
183	*Pulâppure Govinda Menon	do.	...	Azhinhalam	...	and Janmi	Nayar.	do.	56.
184	V. Kannan Nayar B.A.	do.	...	Parappanangâdi	...	Janmi	do.	do.	76.
185	Tiruvâli Pannikottu Kôru Menon	do.	...	Tiruvâli	...	Law Student	do.		
186	*Padinhârepat Govinda Waryar	do.	...	do.	...	Janmi	do.		
187	Manâzhi Nârâyanan Mûssad	do.	...	Pazhanchanur...	...	Janmi and Adhikari of the Amsam.	Ambalavasi.	do.	88.
188	*K. Êrâsha Menon	do.	...	Neduva	...	Janmi	Brahman.	do.	55.
189	*M. Govinda Menon	do.	...	Azhinhalam	...	2nd Grade Pleader, Parappanangâdi.	Nayar.	do.	77.
190	*P. Kander Nayar	do.	...	Manjêri	...	do.	do.	do.	79.
191	P. Râmunni Menon	do.	...	Vâlakulam	...	do.	do.		
192	P. Govinda Menon	do.	...	do.	...	Sub-Registrar, Malapuram	do.		
193	*P. Karunâkara Menon	do.	...	Tiruvâli	...	Sub-Registrar, Andathôde	do.		
194	C. Krishnan Nayar	do.	...	Kizhumuri	...	Dy. Collector in charge of Escheats.	do.	do.	59.
195	P. Krishna Menon	do.	...	Azhinhalam	...	Rev. Inspector, Walluvanad Taluk	do.		
196	V. Gôpâla Pishârôdi	do.	...	Chêkkod	...	Clerk, Malabar Collector's Office	do.		
197	*C. Karunâkara Menon B.A.	do.	...	Neduva	...	Janmi	do.	do.	119.
198	Pattârumbil Kêlu Nayar	do.	...	Parappanangâdi	...	Sub-Editor of "the Hindu".	do.		
199	*Channazhi Krishnan Mûssad	do.	...	Ponnala	...	Tenant farmer	do.		
200	P. Kôman Menon	do.	...	Mêlmuri	...	Janmi	Brahman.	do.	86.
201	Elaya Tirumulpâd of Nilambur	do.	...	Nilambur	...	Inspector of Salt and Abkari	Nayar.	do.	
202	Manjeri Kâranamulpâd	do.	...	Manjêri	...	Revenue, Nagapatam	Sâmantan.	do.	
203	*Kolappurath Vellôttare Thâmu Panikken	do.	...	ûrakam Mêlmuri	...	Sthâni and Janmi	do.	do.	90.

Serial No.	Name.	Taluk.	Amsam.	Description.	Caste.	Whether answers printed.	REMARKS.
204	*Rama Nambi alias Páranambi	Ernád.	Kizhumuri	Stháni and Janmi	Ambalavási.		Witness No. 82.
205	*Muttáyi Vélappa Menon	do.	Neduva	Janmi	Nayar.		do. 84.
206	K. Kannan Nayar	do.	Kizhumuri	School Master, Palghat	do.		
207	Payyanát Kunnath Chénnu Panikker						
208	Rámunni Nayar	do.	Payyanad	Janmi and Tarawád Káranavan	do.		
209	O. Krishna Menon B.A.	do.	Kizhumuri	Head Constable Badagara, in charge of Police Inspector's Office	do.		
210	Karumattil Gópala Menon	Ponnani	Nediyirippu	Head Clerk, Sub-Court, Palghat	do.		
211	*Patipurakkel Nánu Menon	do.	Chikkode	Janmi	do.		
212	Manhappilli Rama Pishârôdi		Náttika	Janmi and Palghat Taluk Board Member	do.		85.
213	Kizhédath Krishna Menon	do.	Tripurangod	Janmi	Ambalavási.		
214	Perumbáyi Shangunni Menon	do.	Niramaruthûr	do.	Nayar.		
215	Koláti Krishna Menon	do.	Iringaprom	do.	do.		
216	*Kuthámballi Krishnan Nambiyar	do.	Veliyangod	do.	do.		
217	Pannikóttu Erásha Menon	do.	Guruvâyûr	Palghat Taluk Board Member	do.		
218	*K. P. Achyuta Menon	do.	Ánakkara	Pensioned Taluk Sheristadar	do.		83.
219	*K. Govindan Nambiyâr	do.	Chekkode	First Grade Pleader Palghat	do.		do.
220	V. Karunákara Menon	do.	Guruvâyûr	do. do. Calicut	do.		99.
221	I. Gópála Menon	do.	Vadakkumpuram	do. do.	do.		74.
222	V. Govinda Panikker	do.	Ponnáni	Sub-Registrar, Mankara	do.		
223	U. Ittinikanda Panikker B.A.	do.	Vayilathûr	do. do. Betat Pudiangádi	do.		
224	V. Sékhara Menon B.A.	do.	Annakara	Translator, High Court	do.		
225	K. Kunhunni Menon	do.	Valiyakunnu	Clerk, chief Secretariat	do.		
226	K. Táchan Menon	do.	Vádánappalli	Taluk Sheristadar, Ernád	do.		
227	A. V. Govinda Menon	do.	Pallappuram	Revenue Inspector, Palghat Taluk.	do.		
228	P. Sankunni Nayar B.A.	do.	Ánakkara	Sea Custom Superintendent, Beypore	do.		
229	Bláhayil Ammunni Nayar	do.	Vatakkumpuram	Clerk, Malabar Collector's Office	do.		
230	Kózhikkóttakathittu Karunákara Menon	do.	Náttika	Janmi and Stháni	do.		
231	Pallathól Shangunny Menon	do.	Pallappuram	Janmi	do.		
232	*Ulanát Kunhi Kôma Panikker	do.	Chennara	do.	do.		78.
		do.	Venkitangu	do.	do.		

Serial No.	Name.	Taluk.	Amsam.	Description.	Caste.	Whether answers printed.	REMARKS.
263	*Panagât Narayana Menon	Walluvanâd	Cherpalcherri ...	Member District Board	Nayar.	Printed.	Witness No. 96.
264	Mangât Gôpâla Menon	do.	Srîkrishnapuram.	First Grade Pleader Tellicherry	do.		
265	Parakât Athunni <i>alias</i> Valiya Nayar.	do.	Kuruvambalam.	Sthâni and Janmi	do.		
266	Vallûr Manakkal Dâmôderan Nambûdiripâd	do.	Muthêdath Mâdamba	Janmi	Brahman.		
267	Vâppâla Kalathil Pangassa Menon.	do.	Kôthakurissi	District Board Member	Nayar.		
268	Dharmoth Panikker <i>alias</i> Thammê Mûtha Panikker	do.	Trikkidrî	Sthâni and Janmi	do.		
269	Cherukara Chîraman <i>alias</i> Mûtha Pishârôdy	do.	Perintalmanna	do.	Ambalavâsi.		
270	Vallapuzha Manakkal Ashta Mûrthi Nambûdiripâd	do.	Vallapuzha	Land Lord	Brahman.	do.	95.
271	*Kayarat Êchera Menon	do.	Kadambazhipuram	Janmi	Nayar.		
272	P. A. Shankunni Menon	do.	Perumudiyur	Deputy Tahsildar, Châvakkâd	do.		
273	*K. Govinda Menon	do.	Pérur	Second Grade Pleader Temalpuram	do.		107.
274	K. R. Krishna Menon	do.	Srîkrishnapuram	Retired Sub-Judge	do.	do.	
275	C. Achutan Menon B. A.	do.	Vellinazhi	Translator, High Court	do.		
276	V. Narayana Menon	do.	Kothakurissi	Clerk, Census Superintendent's Office Madras	do.		
77	K. P. Krishna Menon	do.	Chunangâd	Barrister-at-Law	do.	do.	
78	K. F. Raman Menon	do.	do.	High Court Vakil, Madras	do.	do.	
79	Olappanna Manakkal Paramêswaran Nambûdiripâd	do.	Vellinazhi	Janmi	Brahman		
80	*Vatavatta Tâppan Nayar	Palghaut	Puthûr	do.	Nayar.		106.
81	Alangât Krishnan Nayar	do.	Yâkkara	Municipal Councillor, Palghaut	do.		
82	*Sêkharan Nayar	do.	Chittalancherry.	Palghaut Taluk Board Member	do.		117.
83	Kannambra Raman Unni Nayar	do.	Kannanûr Pâtôla	Sthâni, Janmi and District Board Member	do.		
34	*Naidillath Gôpâla Menon	do.	Kizhakkêlara	Janmi	do.		111.
35	Naduveledam Bhîman Achen	do.	Tarûr	Sthâni and Janmi	do.		

Serial No.	Name.	Taluk.	Amsam.	Description.	Caste.	Whether answers printed.	REMARKS.
319	T. C. Shangunni Menon	Cochin	Trichūr	Deputy Tahsildar, Quilandy	Nayar.		
320	A. Nānu Menon	do.	Chittūr	Deputy Tahsildar, Alattūr	do.		
321	P. Govinda Menon	do.	Trichūr	School Master, Cochin	do.		
322	K. V. Krishna Warriar	do.	do.	Student, Madras	Ambalavāsi.		
List of persons who have not sent in Answers to the Interrogatories of the Malabar Marriage Commission.							
323	Ezhuthan Poyilil Raman Nayar	Chirakkal	Eramam	Janmi	Nayar.	...	
324	Karakatidathil Rāppan Nambiyar.	do.	Kānhilēri	do.	do.	...	
325	Chetichēri Thāzhathidathil Odēnan Nambiyār	do.	Malappattam	do.	do.	...	
326	Pāttathil Kunhamman Nayar	do.	Kurumāthūr	do.	do.	...	
327	Udayammādath Thazhatha Vītil Rāmarkutti Nambiyār	do.	Cherukunnu	do.	do.	...	
328	Mānikkōth Kammāran Nambiyār	do.	Azhikkōd	do.	do.	...	
329	Mungath Krishna Pishārōdy	do.	Chirakkal	do.	Ambalavāsi	...	
330	Mundōt Puliampadappu Haridāsan Sōmayājjipād	do.	Taliparamba	Vayidīkan	Brahman	...	
331	Vēngapraph Bhattathiri Yatnyan Nambūdīri	do.	Kairalam	do.	do.	...	
332	C. Karunākaran	do.	Mailanjanmam	Deputy Tahsildar, Taliparamba.	do.	...	
333	M. Rāman	do.	Puzhāthi	Translator, Collector's office.	Tiyan	...	
334	U. T. Krishnan	do.	do.	Clerk,	do.	...	
335	U. M. Rāman	do.	do.	do.	do.	...	
336	K. Chanthan	do.	Iruvēli	do.	do.	...	
337	M. Kēlu Nambiyār	do.	Azhikkōd	do.	do.	...	
338	N. Rāmunni	do.	Puzhāthi	First Grade Pleader, Tellicherry	Nayar.	...	
339	T. Kunhi Rāman Nayar	do.	Kannapuram	Police Inspector, Taliparamba.	Tiyan.	...	
340	P. Bāppu	do.	Puzhāthi	Second Grade Pleader, Calicut.	Nayar.	...	
341	Kāmprath Kunhi Krishnan Nambiyār	Kottayam	Pānūr	Civil Apothecary, Ponnāni.	Tiyan.	...	
342	Chandrorōth Kunhi Chandu Nambiyār	do.	Panniyannūr	Janmi.	Nayar.	...	

343	Pāloli Edathil Kunnummal Kunhi	Kōttayam	...	Kārâyād	...	do.	do.
344	Krishnan Valiya Nambiyār Ponniyath Akathūta Raman Mumbunnu	do.	...	do.	...	Janmi and a Sthāni.	do.
345	Chingōran Gvindan Nayar	do.	...	Kallai	...	Janmi	do.
346	Mundayōdan Krishnan Nayar	do.	...	Tellicherry	...	do.	do.
347	Pullanchēri Valiya Nambūdiripād...	do.	...	Kōttayam	...	do.	Brahman
348	Kannambath Vāsudēvan Nambūdiri.	do.	...	Chāvassēri	...	do.	do.
349	Nellachēri Kōmath Kunhi Kōmapan Adiyody	do.	...	Puthūr	...	do.	do.
350	K. Mannan	do.	...	Mahé	...	Deputy Tahsildar, Cherpālcherri	Tiyan.
351	K. Kunhi Raman	do.	...	do.	...	Clerk, Collector's Office.	do.
352	C. M. Anandan	do.	...	Tellicherry	...	do.	do.
353	C. Narayanan.	do.	...	do.	...	Clerk, Head Asst. Collector's office.	do.
354	P. Krishnan	do.	...	do.	...	Head Clerk, Special Assistant Collector's Office.	do.
355	C. Kanāran	do.	...	do.	...	Escheat Inspector, Ponnāni.	do.
356	C. Krishnan	do.	...	do.	...	Head Clerk, Deputy Collector's Office, Calicut.	do.
357	K. Karunākaran Nayar.	do.	...	Tiruvangād	...	Sheristadar, Palghaut Sub-Court	Nayar.
358	P. Sumathi	do.	...	Tellicherry	...	Police Inspector, Quilandy.	Tiyan.
359	P. Kanaran	do.	...	do.	...	Member, Calicut Taluk Board.	do.
360	C. A. Govindan	do.	...	do.	...	Municipal Councillor, Cannanore.	do.
361	A. Govindan	do.	...	do.	...	do.	do.
362	C. Kanāran	do.	...	do.	...	do.	do.
363	C. Achutan	do.	...	Mailānjanmam...	...	do.	do.
364	Kōttayath Raja	do.	...	Kōttayam	...	Kōttayam Rajah	Sāmantan.
365	N. Krishnan Nambiyār B.A.	do.	...	Kandam Kunnu.	...	Law Student	Nayar.
366	P. Krishnan Nambiyār B.A.	do.	...	Nittūr	...	Clerk, Collector's Office.	do.
367	C. Krishnan	do.	...	Mailānjanmam...	...	Head Clerk, District Munsiff's Court, Tellicherry.	Tiyan.
368	K. Gōvindan	do.	...	Tellicherry	...	Asst. Supt. of Sea Customs, Ponnāni.	do.
369	Puramēri Kōvilagath Sankara Varman Tamburān	Kurumbranād	...	Puramēri	...	Kadathanād Rajah.	Nayar.
370	Kizhakkédath Kōvilagath Raja	do.	...	Pananyad	...	A member of the above family	do.
371	Avinhāt Nayar	do.	...	Perambra	...	Janmi and Sthāni.	Nayar.

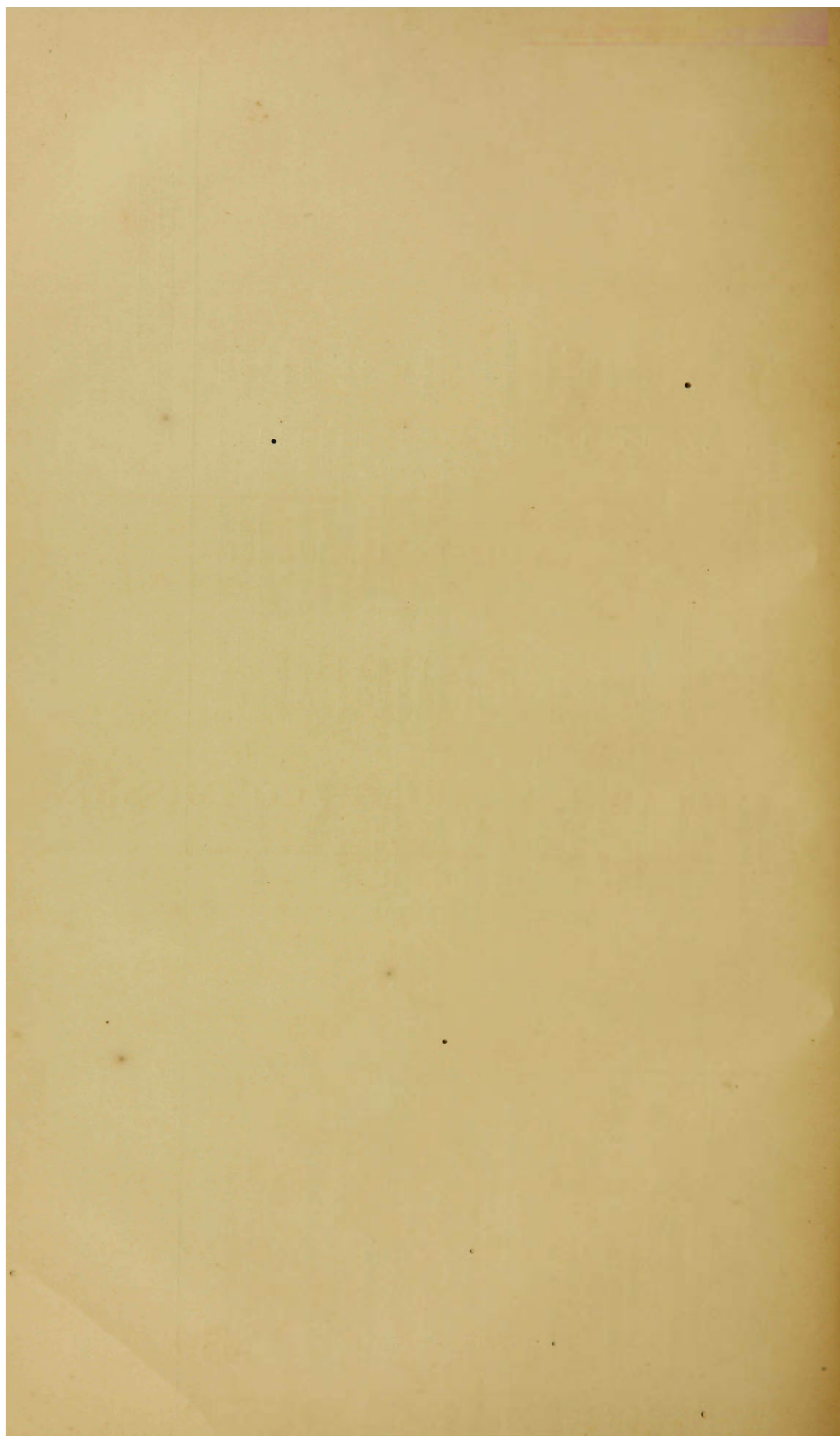
Serial No.	Name.	Taluk.	Amsam.	Description.	Caste.	REMARKS.
372	Kurukát Kunhi Paidal Kurup	...	Ponméri	Janmi.	Nayar.	...
373	Eranjeri Illath Dámódaran Nam-budiri	Kurumbranád...	do.	do.	Brahman	...
374	Murchilot Kunhi Ambu Kurup	do.	Ayanchéri	do.	Nayar	...
375	Kômath Góvinda Kurup	do.	do.	do.	do.	...
376	Vannathánkandi Kélappan Nam-biyâr	...	Kôttappalli	do.	do.	...
377	Pukkôt Janaméjayan Nambiyâr	do.	Etachéri	do.	do.	...
378	Valappil Chakkrápâni Wariyar	do.	Méminda	do.	Ambalavási.	...
379	Níravelli Ananda Kurup	do.	Arakkilad	do.	Nayar.	...
380	Makkát Kunhúnhan Nayar	do.	Mélati	do.	do.	...
381	Thondipunathil Rárukutti Kidávu.	do.	Pallikara	Janmi	do.	...
382	Tekkédath Nayar	do.	Viyyur	do.	do.	...
383	Attupurath Imbichan Vayidier	do.	do.	Janmi and Stháni.	do.	...
384	Chengottéri Chandu Nambiyâr	do.	Kuttiyadi	Native doctor and a learned man	Tiyan.	...
385	T. Govinda Kurup	do.	Azhiyâr	Janmi.	Nayar.	...
386	K. Ramar Nambiyar	do.	Badagara	Sheristadar, Walluvanád Taluk.	do.	...
387	K. Govinda Wariyar	do.	Kánhiléri	Clerk, Collector's office.	do.	...
388	T. Kannan Nair	do.	...	Second Grade Pleader, Quilandy	Ambalavási.	...
389	A. Imbichan Gurikkal	do.	Viyyur	do. do. Nádâpuram	Nayar.	...
390	Beyppore Kóvilagath Valia Raja	...	...	Native Doctor and Tarawâd Kâra-navan	Tiyan.	...
391	Méppalli Krishnan Adithiripád	Calicut	Beyppore	Beyppore Raja	Kshatriyan.	...
392	Mámalli Padmanâbhan Mússad	do.	Matavur	Janmi	Brahman	...
393	C. R. Karunákara Menon	do.	Tâmarasséri	do. and Calicut Taluk Board	do.	...
394	Manniledathil Valiya Ittirâppunni Nayar	do.	Panniyankara	Member	Nayar.	...
395	Palákunnath Kolâyi Châthu Nayar.	do.	Châthamangalam.	High Court Vakil	do.	...
396	V. Kunhi Râman	do.	Mâyanâd	Janmi and a Málîkhâna-holder	do.	...
397	K. Krishna Kurup	do.	...	Janmi and Calicut Taluk Board	do.	...
398	P. Kôndi Menon	do.	Nagaram	Member	do.	...
		do.	Kâranânûr	Clerk, Collector's office	Mukkuvan.	...
		do.	Valayanâd	Teller Currency Office	Nayar	...
		do.	...	Accountant, Collector's office	do.	...

399	N. Kôman Nayar	...	Calicut.	...	Katchéri	...	Assistant Inspector, Salt and Ab- kari Revenue, Tellicherry	Nayar.
400	Kolâyi Châthû Nayar	...	do.	...	Mâyanâd	...	Taluk Board Member, Calicut	do.
401	M. Cheriya Ittirâppan Nayar	...	do.	...	Châthamangalam.	...	Member, Calicut Taluk Board	do.
402	T. M. Gôpala Panikkar	...	do.	...	Katchéri	...	Municipal Councillor, Calicut	do.
403	K. P. Châthukutti	...	do.	...	Kasba	...	Translator, District Court, Calicut.	Tiyan.
404	V. Narayana Menon	...	do.	...	Panniyankara	...	Sub-Registrar, Tânr	Nayar.
405	M. Unni Êrâdi	...	do.	...	Makkada	...	District Registrar	do.
406	K. P. Gôvinda Menon	...	do.	...	Panniyankara	...	High Court Vakil, Madras	do.
407	C. R. Karunâkara Menon	...	do.	...	do.	...	Retired High Court Vakil	do.
408	C. Sankunni Menon	...	do.	...	Valayanâd	...	Uncovenanted Assistant to the Special Settlement Officer, Ma- labar and Canara	do.
409	Bey pore Rajah.	...	do.	...	Bey pore	...	Bey pore Rajah	Kshatrian.
410	Mullankîzha Sree Kumâran Nam- budiri	...	Ernâd	...	Puliyakôd	...	Janmi	Brahman.
411	Kutti purath Velu Panikkar	...	do.	...	Orakam Melmuri.	...	do.	Nayar.
412	Appassêri Râmunni Panikkar	...	do.	...	Vallikunnu	...	do.	do.
413	Vellekkat Bhattathiripâd	...	do.	...	Pôrûr	...	do.	Brhman.
414	Naduvath Subramanian Nambû- diripâd	...	do.	...	Wandûr	...	do.	do.
415	Punnoli Kôrôth Velâyudha Menon.	...	do.	...	Mannûr	...	do.	Nayar.
416	Kannanûr Elamadathil Râmanunni Nayar	...	do.	...	Manjêri	...	do.	do.
417	Châyilliath Râmunni Nambiyar	...	do.	...	Payyanâd	...	do.	do.
418	Karukamanna Nilakandhan Mûssad	...	do.	...	do.	...	do.	Brahman.
419	Parakkât Mûppil Nayar	...	do.	...	Kannamangalam.	...	do. and Sthâni	Nayar
420	Mullassêri Gôpala Menon B. A.	...	do.	...	Kôttakkal	...	Law Student	do.
421	Pâkkath Krishna Menon	...	do.	...	Kizhumuri	...	Janmi	do.
422	Amarapulath Valiya Tirumulpâd.	...	do.	...	Nilambûr	...	do.	Sâmantan.
423	P. Kunhunni Menon B. A.	...	do.	...	Tiruvâli	...	Clerk, Head Assistant Collector's Office	Nayar.
424	K. P. Râman Menon	...	do.	...	Azhinbilam	...	District Board Member, Malabar...	do.
425	Valluvanâttukare Vallabha Valiya Raja	...	do.	...	Mankada	...	Walluvanâd Raja	Sâmantan.

Serial No.	Name.	Taluk.	Amsam.	Description.	Caste.	REMARKS.
426	* Varikkāssēri Manakkal Nambū-diripād	Walluvanād	Sreekrishna puram	Janmi and Vayidikan	Brahman.	...
427	Cherumukkil Manakkal Akkithiripād	do.	Karakkāḍ	do.	do.	...
428	Mannārghaut Nayar	do.	Mannārghaut	Janmi	Nayar.	...
429	Molanhūr Nayar	do.	Molanhūr	do.	do.	...
430	Etachōla Panikkar	do.	...	Janmi	do.	...
431	Kunnath Pangunni Menon	do.	Kūnathara	do.	do.	...
432	Nedungāthiripād	do.	Cherpalecheri	do. and Sthāni	Sāmantan	...
433	E. Shangaran Nayar	do.	Vallappuzha	Clerk, District Board Office	Nayar.	...
434	P. Gōvinda Menon	do.	Chalavara	Revenue Inspector, Walluvanād	do.	...
435	M. Rāmunni Mūppil Nayar	do.	Mannārghaut	Member, Malapuram Taluk Board.	do.	...
436	K. Achutan Nayar	do.	Perintalmanna	First Grade Pleader, Calicut	do.	...
437	Pudiya Kalpāthi Iswara Dīkshidar.	do.	Puthūr	Vayidikan	Brahman	...
438	Chandrasékharapuram Ananda Rāma Vādhiyar	Palghaut	...	...	...	...
439	A. N. Ananta Narayana Iyer B. A. B. L.	do.	Edathara	do.	do.	...
440	P. S. Shēshu Iyer	do.	Puthūr	High Court Vakil practicing at Palghaut	do.	...
441	P. K. Subramania Iyer	do.	do.	Vakil, Palghaut	do.	...
442	* Kallankandath Gōvinda Menon	do.	do.	do.	do.	...
443	Elayāt Achuta Menon	do.	Kāttussēri	do.	Nayar.	...
444	Kumaramchitayath RekkunniAchehan	do.	Pallanchāthanūr	Janmi	do.	...
445	Kanakanikandath Chāmi Mannādiyar.	do.	Kuzhilmanna	do.	do.	...
446	Malamal Nānu Nayar	do.	Pallamchāthanūr	do.	do.	...
447	Kōngōt Karunākaran Nayar	do.	Kāttussēri	do.	do.	...
448	Kāmprath Ichara Menon	do.	Ayakkāḍ	do.	do.	...
449	Kunnamkumarath Chāppunni Menon	do.	Padinhārethara.	do.	do.	...
50	Perinjēri Parangōdassa Menon	do.	Panangātri	do.	do.	...
51	Panikkath Narayana Mannādi	do.	Pallāvur	do.	do.	...
52	K. Unnāmi Nayar	do.	Kizhakkēthara...	do.	do.	...
53	P. Sankunni Menon	do.	Ayakkāḍ	Clerk, Collector's Office	do.	...
			Vadavannūr	do. Spl. Asst. Collector's Office.	do.	...

454	V. Sankara Panikkar	...	Palghaut.	...	Puthûr	...	Revenue Inspector,	Calicut Taluk.	Nayar.
455	M. Kesava Menon	...	do.	...	Mangalam	...	do.	Ponnâni	do.
456	Pûmulli Manakkal Narayanan	...	Ponnâni	...	Kôthachira	...	Janmi	...	Brahman.
457	Nambûdripâd	...	do.	...	Naglasséri	...	Learned man	...	do.
458	Chorâth Raman Mûssad	...	do.	...	Kizhumuri	...	Vayidîkan	...	do.
459	Kavaprê Kanayûr Jâda Vêdan	...	do.	...	Râyirimangalam.	...	do.	...	do.
460	Nambûdiri	...	do.	...	Vattamkulam	...	do.	...	do.
461	Chunnulath Bhavan Sômayâjipâd	...	do.	...	Tripurangôttûr	...	do.	...	do.
462	Amêttûr Narayanan Nambûdiri	...	do.	...	Panangâd	...	Janmi	...	Nayar.
463	Pâveri Raman Sômayâjipâd	...	do.	...	Ponnâni	...	do.	...	do.
464	Muthirakkal Ikkôma Panikkar	...	do.	...	Irimblyam	...	do.	...	Brahman.
465	Ittikât Karunâkara Menon	...	do.	...	Anandâvûr	...	do.	...	do.
466	Vayyâvinattutaya Vilikêralam	...	do.	...	Kôtanâd	...	Pensioned Sheristadar, Calicut Taluk	...	Nayar.
467	alias Vâsunni Nambidi	...	do.	...	Kattipparathi	...	Janmi	...	do.
468	Cheruchôla Narayanan Mûssad	...	do.	...	Chekkod	...	Vernacular Head Accountant, Collector's Office	...	do.
469	Tozhukkat Kunnath Kunhikuttan	...	do.	...	Veliyangod	...	Revenue Inspector, Palghaut Taluk.	...	do.
470	Nambiyar	...	do.	...	Trikkandiyûr	...	Municipal Councillor and Second Grade Pleader, Calicut	...	do.
471	Vêlanjêri Vêllâtt Sankara Menon.	...	do.	...	Pallapuram	...	Registrar, Nilgiris	...	do.
472	V. Krishna Menon	...	do.	...	...	...	High Court Vakîl, Madras	...	do.
473	K. Sankunni Menon	...	Native Cochin.	...	...	...	First Grade Pleader, Calicut	...	do.
474	Padanât Krishna Menon	...	do.	...	...	...	High Court Vakîl, Madras	...	do.
475	M. Sankara Menon	...	...	...	...	...	...	...	...
476	P. P. Râman Menon, B. A., B. L.	...	...	...	...	...	...	...	...
477	K. Krishna Menon, B. A.	...	...	...	...	...	...	...	...
478	K. P. Sankara Menon, B. A., B. L.	...	...	...	...	...	...	...	...

H. M. WINTERBOTHAM,
Collector on Special Duty.



APPENDIX III.

TO THE

REPORT

OF THE

MALABAR MARRIAGE COMMISSION.

APPENDIX III.

CONTENTS.

List of persons whose answers to Interrogatories have been printed.

No.	Name.	Description.	Page.	Whether for or against marriage legislation.	
				For	Against.
1	The Zamorin ...	Maharajah Bahadur, Zamorin of Calicut ...	1— 4		Against.
2	The Erâlpâd. or Elaya Rajah...	Heir Presumptive of the Zamorin, Senior of the Kottakkal Kovilagam ...	5— 7		Against.
3	Padinyâré Kovilagath Valia Tamburân.	Head of the Padinyâré Kovilagam, Calicut ...	8— 11		Against.
4	Kêrala Varma Valiya Rajah...	Rajah of Chirakkal ...	12— 14		Against.
5	Ettan Tamburân ...	Second Tamburân of Padinyâré Kovilagam, Calicut ...	15— 19		Against.
6	Mâna Varma Rajah ...	Kadathanâd Porlâtiri Rajah ...	20		Against.
7	Ayancheri Kovilagath Krishna Varma Rajah.	The 3rd Rajah of Kadathanâd, and Head of a Branch ...	21— 22		Against.
8	Vallapuzha Manakkal Ashta Mûrthi Nambudiripâd.	A wealthy Nambudiri landlord in Walluvanad Taluk ...	23— 26		Against.
9	Kolathûr Ukkandunni Vâriyar.	A wealthy landlord belonging to the Ambalavâsi (Temple-servant) caste in Walluvanad Taluk ...	27— 31		Against.
10	C. Tiruvenkata Châriyar, B.A., B.L.	Brahman, Dewan of the Native Cochin State ...	32— 36		Against.
11	A. Sankariah, B.A. ...	Brahman, Dewan Peishkar, Native, Cochin ...	37— 39		Against.
12	P. Govinda Menon, B.A. ...	Deputy Superintendent of Census Operations, Calicut ...	40— 54		Against.
13	Kannambra Râmanunni Nayar.	Belongs to a rich Nâduvâzhi (Chieftain) family, Member of the Malabar District Board ...	55— 59		Against.
14	T. V. Anantan Nayar, B.A., B.L.	District Munsiff, Parappanangâdi ...	60— 74		Against.
15	Manjêri Kâranamulpâd ...	Stâni and great landlord in Ernâd Taluk ...	75— 78		Against.
16	Kuthiravattath Nayar ...	A great landlord in Palghât Taluk. (Founder of the family was son of a former Zamorin) ...	79		Against.
17	K. Imbiehunni Nayar ...	1st Grade Pleader, Tellicherry ...	80— 85		Against.
18	A. Chathu Nambiyar ...	District Munsiff, Nâdâpuram ...	86— 90		Against.
19	K.M. Subramanian Tirumumbu.	Marumakkathâyam Nambudiri landlord ...	90— 94		Against.
20	Kâramvelli Kunhunni Kurup...	Nayar landlord in Calicut Taluk...	95— 96		Against.
21	V. Kêlu Erâdi ...	District Munsiff, Payyanâd ...	97—100		Against.
22	C. Karunâkara Menon, B.A. ...	Sub-Editor of "The Hindu" Newspaper ...	101—110		Against.
23	K. Eresha Menon ...	2nd Grade Pleader, Parappanangâdi.	111—112		Against.
24	A. Achutan Sômayâjipâd ...	Nambudiri landlord and a Vaidîgan (man learned in Vêdâs) in Ponnani Taluk ...	113—114		Against.
25	Vallûr Manakkal Vâsudêvan Nambudiri.	Nambudiri landlord, Walluvanad Taluk ...	115		Against.
26	C. Râmunni Menon, B.A. ...	Sub-Registrar, Tirurangâdi ...	116—121		Against.
27	J. Sturrock, Esq., C.S. ...	Collector and Magistrate, Coimbatore ...	122—123		Against.

APPENDIX III.—(continued).

No.	Name.	Description.	Page.	Whether for or against marriage legislation.	
				For	Against.
28	T. Kunhi Raman Nayar	Judge, High Court, Trevandrum (Native of North Malabar)	124—146	For	
29	T. Rama Row	Dewan of Travancore	147—148	For	
30	A. Govinda Pillay, M.A.	Dewan Peishkar, Travancore	149—164	For	
31	E. K. Krishnan, B.L.	Sub-Judge, South Malabar, Calicut.	165—169	For	
32	C. Gopalan Nayar	Sub-Judge, North Malabar, Tellicherry	170—176	For	
33	K. Krishna Menon, B.A., B.L.	High Court Vakeel, practising at Calicut	177 to 186	For	
34	A. C. Kannan Nambiyar	District Munsiff, Badagara	187—213	For	
35	T. Gopalan Nayar, B.A., B.L.	Deputy Collector, Coimbatore	214—218	For	
36	K. R. Krishna Menon	Retired Sub-Judge	219—228	For	
37	B. Kammaran Nayar	District Munsiff, Chowghât	229—238	For	
38	P. Kômu Menon	Inspector, Salt and Abkâri Dept., Negapatam	239—242	For	
39	V. Chappan Menon, B.A.	Deputy Collector, Calicut	243—250	For	
40	P. K. Kelappa Kurup, B.A., B.L.	High Court Vakeel, practising at Tellicherry	251—258	For	
41	U. Achutan Nayar, B.A.	District Munsiff, Nedunganâd	259—265	For	
42	Kotieth Ramunni	1st Grade Pleader, Tellicherry Marmakkathâyam Tiyan	266—270	For	
43	P. Kunyambu	2nd Grade Pleader, Cannanore Marmakkathâyam Tiyan	271—278	For	
44	T. Kunyambu	Tahsildar, Ponnani, Marmakka-thâyam Tiyan	279—284	For	
45	M. Gopala Menon	1st Grade Pleader, Tellicherry	285—289	For	
46	C. Gopalan Nayar	Tahsildar, Chirakkal	290—294	For	
47	B. K. Mâdhavan Nambiyar	Sheristadar, Calicut Taluk	295—299	For	
48	A. Châthu	Huzur Sheristadar, Marmakka-thâyam Tiyan	300—302	For	
49	K. P. Krishna Menon	Barrister-at-Law	303—306	For	
50	K. P. Raman Menon, B.A., B.L.	High Court Vakeel, Madras	307—313	For	
51	K. Krishna Kurup, B.A., B.L.	High Court Vakeel, practising at Tellicherry	314—332	For	
52	K. Ramunni	Pensioned Tahsildar, Marmakka-thâyam Tiyan	333	For	
53	K. V. Chappunni Nayar	Sheristadar, Ponnani Taluk	334—338	For	
54	Onden Raman	Sheristadar, Chirakkal, Marmak-kathâyam Tiyan	339—348	For	
55	C. Kannan Nayar	2nd Grade Pleader, Palghât	349—351	For	
56	E. Ambu Nayar	Sub-Registrar, Ponnani	352—359	For	
57	P. Karunagara Menon	Escheat Deputy-Collector, Malabar.	360—361	For	
58	M. Othêna Menon	Sub-Registrar, Payyôli	362—369	For	
59	K. Krishnan	Sub-Registrar, Cannanore, Mar-makkathâyam Tiyan	370—380	For	
60	P. Govinda Menon	District Munsiff, Betatnâd	381—383	For	
61	V. Kêsava Menon, B.A.	Sub-Assistant Inspector of Schools, Calicut Range	384—389	For	
62	K. Dâmôdara Menon, B.A.	1st Grade Pleader, Palghât	390—395	For	
63	V. A. Brodie, Esq., C.S.	Collector and Magistrate, South Canara	396—401	For	
64	A. Ramaya Punja, B.A., B.L.	District Munsiff, Mercara	402—412	For	

ATTEST: This 1st day of May 1864

Notary Public for the County of ... State of ...

[Signature]

Subscribed and sworn to before me this 1st day of May 1864

In presence of ...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

Interrogatories circulated by the Commission.

QUESTIONS.

1. Amongst Nayar and higher castes can a man of a higher division have Sambandham in a lower division?
2. Is the same liberty accorded to a woman?
3. In what, if any, cases is Sambandham between different divisions altogether forbidden?
(For instance, do Nayar men and women of the Chârnata division form Sambandham with men and women of the Sûdra Nayar division and *vice versâ*?)
4. If a man and woman belonging to different divisions, between which Sambandham is not customary, form Sambandham, does it subject them, to any and if so what, social penalty?
5. Can such Sambandham be validated by a Prâyaschittham? (Fine or other expiation).
6. What is the recognised boundary between North and South Malabar for caste purposes?
7. Do the Nayars of South Malabar form "Sambandham" with those of North Malabar, and *vice versâ*?
8. Can a Nayar of South Malabar form "Sambandham" with a Nayar woman of North Malabar? If not, why not?
9. May the Nayar women of North Malabar cross to the South of the Kôrapuzha river?
10. Why are they prohibited from doing so?
11. What is the Tâli Kettu Kalyânam? Describe the ceremony.
12. Who should tie the Tâli? Has he a name in Malayalam?
13. Is it the custom for a number of girls, at the same time and place, to have their Tâli tied on by one and the same man?
14. Does the man who ties the Tâli thereby obtain a right to cohabit with the girl?
Can you explain why he should not do so?
15. If there is no such right, is there any prohibition to his afterwards forming Sambandham with the girl?
16. Have you personally ever known an instance of such a Sambandham?
17. When the man who tied the Tâli dies is there any pollution to the girl?
If so do all divisions recognise such pollution, or only some divisions? Name them.
18. Is the Tâli sometimes tied on by the girl's mother instead of by a man?
19. Must every Marumakkathâyam girl undergo the Tâlikettu ceremony before reaching the age of puberty?
Is there anything but custom to be pleaded in justification of this?

20. After Tâli Kettu Kalyânam, when a girl desires to consort with a man, are any further formalities necessary?

If so specify them.

21. When a Nâyâr lady forms Sambandham with a Nambûdiri, or a Pattar, (foreign Brahman) are the same formalities observed as when the Sambandhakâran is a Nâyâr? If there is any difference, what is it?

22. Are the formalities attending Sambandham the same in North and South Malabar?

Are the formalities the same throughout North Malabar?

Are they the same throughout South Malabar?

23. Can a woman have Sambandham with as many men as she pleases at the same time?

24. Is this permitted or prohibited, and in either case where can such a permission or prohibition be found?

25. If a woman wishes to terminate the Sambandham can she do so?

26. Is any sort of formality necessary to dissolve the connection?

If so describe it?

27. Can a man have Sambandham in more than one house at the same time?

28. If he chooses is there anything to prevent it?

29. During Sambandham in whose house does the woman sleep and take her meals?

30. Is the custom the same in North and in South Malabar?

31. According to recognised custom should the man support the woman and her children during Sambandham?

32. Is it the custom to change "Sambandham" frequently, or is it the rule for one man and one woman to cleave together for life?

33. If a woman lives with her Sambandhakâran in his house, and bears him children, does he, or does he not, feed and clothe them?

34. If Anandaravans work for the Tarawâd is any allowance made to them by the Kâranavan?

Do they often cultivate Tarawâd land for a rent?

In such cases are they permitted to deal with the surplus, if any, at their pleasure?

35. Do Anandaravans generally work for their Tarawâd, or do they try to earn something for themselves?

36. With their earnings do they support their wife and children, or do they hand over their earnings to their Kâranavan?

37. Is there such a thing as പുത്രാവകാശം (Putrâvakâsam = son's right) in North Malabar, amongst Nâyars and Marumakkathâyam Tiyaars? If so, describe what it is?

Is there any practice analogous to it in South Malabar?

38. Is there any objection to providing a permissive marriage-law for Nâyars?*

* NOTE.—By inadvertence the words "and other Marumakkathâyam Hindus" were omitted, but the omission does not occur in the Vernacular Version.

If there are any objections state them?

39. If legal sanction is to be accorded to marriage, would you prefer to retain the customary form and make registration of the marriage evidence of its legal recognition, or substitute for it the subjoined form?

“The marriage shall be solemnized in the presence of the Registrar and of the three witnesses who signed the declaration. It may be solemnized in any form, provided that each party says to the other in the presence and hearing of the Registrar, and the witnesses, “I (A) take thee (B) to be my lawful wife (or husband.)”

40. Do the conditions of a valid marriage mentioned below differ from the Sambandham recognised in practice? If they differ state in what respects.

“Marriage may be solemnized under this Act between Hindus either or both of them following the Marumakkathâyam law of succession upon the following conditions:—

(1) Neither party must, at the time of the marriage have a wife or husband living.

(2) The man must have completed the age of eighteen years and the woman the age of fourteen years.

(3) Each party must, if he or she has not completed the age of twenty-one years, have obtained the consent of his, or her, legal guardian to the marriage.

(4) The relation of the parties must not be such in respect of consanguinity or affinity that according to any recognized custom, a marriage between them would be improper.

1st Proviso.—No such law or custom other than one relating to consanguinity or affinity, shall prevent them from marrying.

2nd Proviso.—No law or custom as to consanguinity shall prevent them from marrying, unless a relationship can be traced between the parties through some common ancestor, who stands to each of them in a nearer relationship than that of great-great-grand-father or great-great-grand-mother, or unless one of the parties is the lineal ancestor or the brother or sister of some lineal ancestor, of the other.

41. Mention any conditions which you would add or omit, together with your reasons for the suggestion.

42. What are considered according to social usage to be reasonable grounds for dissolving a Sambandham?

43. What is the existing usage as to the maintenance of Nâyar wives and their children?

44. What is your opinion as to the new rights proposed to be derived from a marriage as described below?

“(a) The husband shall be *ipso facto* the legal guardian of his wife and of her children born to him before or after such marriage. He shall, however, forfeit such right if, without the concurrence of his wife, he becomes a convert to another religion.

(b) The wife and children shall retain their rights as members of their tarawâd, and shall further be entitled to claim maintenance from the husband.

(c) After the husband's death, the wife shall become the legal guardian of the children in her own separate right, but she shall forfeit such right if she becomes a convert, to another religion without the consent of the head of her tarawâd. In such cases the guardianship shall vest in the head of the tarawâd.

(d) If either husband or wife die intestate in respect of any of his or her separate or self-acquired property, the said property shall devolve on the survivor and children born to him before or after such marriage (if any) in equal shares, and, failing them, on the tarawâd.

(e) It shall be lawful for such husband or wife being of sound mind, and not a minor, to dispose of his or her separate or self-acquired property by will; provided that the husband shall make sufficient provision for his wife and children. In case of default the wife and children shall have a right to so much of the property as will provide them with a suitable maintenance, with due regard to what they have already received from the husband.

(f) Property devolving on the survivor of a marriage or the children whether by inheritance or will, shall be deemed to be their self-acquired property."

45. Is Sambandham customary between the Nâyars in British Malabar and those living in Cochin and Travancore?

MARUMAKKATHÂYAM MARRIAGE COMMISSION.

MEMORANDUM

BY

THE ZAMORIN, MAHARAJAH BAHADUR,
CALICUT.

In reply to a letter dated 11th April 1891, addressed to him by
H. M. Winterbotham Esq., Collector of Malabar, in connection
with the Malabar Marriage Bill.

*The origin of the Marumakkathâyam System now prevalent in Malabar, and
the authorities in support of the same, are given below :—*

The term Marumakkathâyam is used in the sense of the terms *Mâthrupârampariam* (succession from the mother), or *Kshêtrapârampariam* (succession from the ground, or receptacle). The term Makkathâyam is, in like manner, used in the sense of *Pithrupârampariam* (succession from the father), or *Bîjapârampariam* (succession from the seed). "The successors come under two heads, successors in the male line and successors in the female line" (*Vyvahâramâlîka*). From the above authority, it is clear that there are two modes of succession viz., Makkathâyam, and Marumakkathâyam.

2. "The woman is considered in law as the soil, and the man as the seed" (*Manusmṛithi* IX Chapter): Hence those who follow the rule of succession through the female line are called the followers of *Mâthrupârampariam*, *Kshêtrapârampariam*, or Marumakkathâyam, and those who follow succession in the male line are called the followers of *Bîjapârampariam*, *Pithrupârampariam*, or Makkathâyam.

In the *Jîmuthapâhatha* it is written :—

3. "The properties of those who have no son, daughter's son or daughter's grandson shall descend to the sister's children." According to this principle, even among the followers of Makkathâyam, the sister's children succeed to the estate in the absence of heirs in that line.

4. In the *Pâdmam Purâna* it is written :—"Having said so, he, as he was devoted to the performance of Yâgas from his boyhood and was destitute of issue, made his nephew heir to the throne. Hence the sister's son has a right to inherit the property in the absence of any other legitimate claimants." From this authority it appears that the king of Chola installed his nephew as he had no son of his loins.

5. I have pointed out in the preceding paras that the sister's children are entitled to succeed to the property only when there are no other claimants of the paternal blood. I now proceed to point out the reason why the sister's children are made the legitimate heirs to the property in preference to the sons in the land of Kêrala.

6. In *Manusmṛithi* Cap. IX it is written :—"In some places the seed of the male is preferred ; in others the womb of the female."

This authority gives us to understand that in some places preference is given to Bijapârampariam, and at other places to Kshêtrapârampariam. I state below the cases in which Makkathâyam is preferable to Marumakkathâyam, and *vice versâ*. It is on the performance of a legitimate marriage that the male can claim the female as his exclusive property, and a legitimate marriage, according to the authorities quoted below, cannot be contracted between a male and female of different castes.

“He alone is a legitimate son, who is begotten on the wedded wife” 2 “To all such married men the wives of the same class only must perform the duty of personal attendance, and the daily business relating to acts of religion.” It is only in cases in which the issue is raised upon a woman in whom marital property is obtained, by a marriage celebrated in the manner prescribed by the above authorities, that the principle of seed (Makkathâyam) is preferred.

“As with cows, mares, she-camels, slave girls, milch buffaloes, she-goats, and ewes, it is not the owner of the bull, or other father, who owns the offspring.” The same rule holds good when a man begets a child upon another’s woman.

According to this authority one who begets a child on an unmarried woman belonging to a different caste will not obtain the child. Again if a Brahman begets a son through lust on a Sudra female, that son is called a living corpse in law, (first, because he has no rights to inherit the property of his father, secondly, because he is not authorized to perform his obsequies : Manusmrithi IX Chapter). The word *putra* (a son) means one who delivers his father from the hell called *put* (पुत). Again, “Men who have no marital property in women, but have sown in the fields owned by others, may raise up fruit to the husbands; but the procreator can have no advantage from it.” We are to understand from this authority that if one sow seed in a field owned by others, one cannot claim the produce, and that it can only be claimed by the owner of the field. Just in the same manner issue begotten on a female owned by others is for the benefit of the mother, and her brothers.

This is the reason why I stated above that Marumakkathâyam is in some cases preferable.

7. The following passage occurs in a discourse between Garga and Yudhis-tira in Kêrala Mahâtmiyam :—

“In this Kêrala only one member of a Brahmin Tarawâd shall marry. The eldest son shall marry in preference to others. It is not necessary that the females of Sâmanthans, Sûdras and others should observe the rule of chastity. But the rule of chastity should be strictly observed by the Brahmin females only. I truly say that the above rule need not be observed by the females of non-Brahmin castes.” The authorities given above will clearly show that, according to Parasu Râma, only the eldest son of a Brahmin family is permitted to marry, and that the other members may keep the females of lower castes, and that chastity should not be observed by non-Brahmin females. If a Brahmin beget a child on a low caste woman, he is not legally married; and he cannot therefore claim marital property in that woman. Such a child can only follow the Marumakkathâyam system and the son thus begotten should perform the funeral rites of his maternal uncle, just as he would do for his father: “thus in my country let the uncle be looked upon as the father and let the uncle’s liabilities and assets descend to him.”

From the above it appears that Parasu Râma himself founded the system of Marumakkathâyam among the people who follow it in Kêrala.

8. The reasons why Parasu Râma established in this country the system of Marumakkathâyam are too many to be stated in this connection. But I may however state here only the chief reasons which bear upon the present question. This land is reclaimed by Parasu Râma from the sea and mountains, and is therefore called Malayâlam,—*Mala* meaning mountain, and *âzham* = the deep,—and this fact is based on this authority viz., chapter 9, Khandapurânam. “The land of Kêrala extending from Gôkarna to Cape Comorin is taken from the sea by Parasu Râma. He also cut down the valleys of the Malaya and Sahian mountains, and reduced them to a level. The land between these two mountains is called Vidâra.” From this authority it can be clearly understood that the land taken out of the sea is called Kêrala; and the land taken out of the mountains, Vidâra. Palghat and Temalpuram come under the latter head. “Parasu Râma was ruling over the land of Kêrala for 88 Yugâs (great periods).” From this passage which occurs in the chapter above quoted, it is clear that Parasu Râma was the king of Kêrala, and that it was he that brought Brahmans and other caste people from other parts and peopled them here. Seeing that these Brahmans were not willing to permanently settle themselves in this land, he, with a view to prevent them from returning to their native land, changed their customs, language, and costume &c. and gave them according to their merits Tarawâds, villages, dignities and so forth. It was ordained that Tarawâd property should not be divided, as partition splits the Tarawâd property, and thereby impairs the permanency thereof. If all the brothers have children dissension may often crop-up among them, which will lead to partition. It was therefore that he ordained that the eldest son alone should marry as stated in the 7th para.

9. “Eunuchs and outcastes are excluded from inheritance” (Manu, chapter IX). Although the word Eunuch, means one who is incapable of begetting a son, yet the term is equally applicable to a man who begets a child on a woman over whom he has no marital rights, as the child is not his own. But it is the issue of the elder brother who are entitled to perform the funeral rites of these younger brothers and to inherit their property, as according to Manu they are to be regarded as the sons of all the brothers.

10. “The gift of daughters in marriage by the sacerdotal class is most approved when they previously have poured water into the hands of the bridegroom, but the (marriage) ceremonies of the other classes may be performed according to their fancies.” “The reciprocal connection of a youth and a damsel with mutual desire is the marriage denominated Gândharva, contracted for the purpose of amorous embraces and proceeding from sensual inclination” (Manu, Cap ix). It is thus that the ancient Marumakkathâyam system became prevalent in Malabar and the authorities for it are those stated above. The following authorities will show that no one shall break the ancient customs and usages. “The observance of immemorial customs increases one’s virtue, and virtues will turn away from those who do not observe those customs. This is declared to be the established rule of good conduct for all the four castes. A king should not urge his subjects to do things which are not consistent with the principles laid down in Smrithis and Sruthis, and he should chastise him who violates them. Whatever has been the custom in a Dêsa, Pura, Grâma or Town, should not be broken through. The rules that have been hereditary in a family or in a country should not be violated, simply because there is no provision in Shastras for the same. We must assume that customs and manners are based on the principles of Vedic texts, which are supposed to have

been lost. Even virtuous deeds should not be done if they are not conducive to public good, and if they do not bring about one's happiness in the next world. A king should not urge-on any body to such things, but should on the contrary prevent them. Custom is regarded to be the foremost among the Āgamas (revelations). The origin of all the virtues is Custom, and the eternal God is the lord of all the virtues". Upon this authority, Parâsara, Manu, Srîpathmia, Vyâsa and other Rishis have declared that immemorial customs and usages should be invariably observed, and that it is improper to introduce innovations at variance with them. I am therefore of opinion that the Marumakkathâyam System, now obtaining in Malabar, cannot be altered in the least degree. As a good deal yet is to be said in support of Marumakkathâyam System, you may be put in possession of such authority, if necessary, on direct communication with Kûdallur Nambudri, Varikkamânjêri Nambudri, Âzhuvânjêri Tampurâkkal, Cherumukkil Nambudri, Mêppalli Nambudri and others.

(Signed). MÂNA VIKRAMAN ZÂMORIN,

Maharaja Bahadur.

A translation of the Sanskrit slôkâs, of which the memorandum is full, was obtained through the Honorable Mr. C. Sankaran Nair.

H. M. WINTERBOTHAM,

Collector on Special duty.

MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. THE ERÂLPÂD, OR ELAYA RAJAH AVARGAL,
CALICUT.

*(Heir Presumptive to the Zamorin Maharaja Bahadur,
Senior member of the Kottakal Branch.)*

1. Yes.
2. A woman cannot have Sabandham with a man of a lower division, but can form Sambandham with a man of a higher division.
3. Among the Kiriya, the Sudras, the Chârnavares, the Vattêkâtans, the Pallichâns and the Andûrâns, the first can have Sambandham with those of their own division and those below them. The males and females of the Chârna division cannot form Sambandham with those of the Sudra division. It is not customary.
4. The penalty is loss of caste. Their fellow caste people will not associate with them.
5. Cannot.
6. Korapuzha.
7. The Nayars of North Malabar go to South Malabar, and form Sambandham with women of a lower division. The Nairs of South Malabar do not form Sambandham with the women of North Malabar.
8. As a woman in South Malabar who has formed Sambandham with a man of her own division, is not prohibited from crossing Korapuzha, a man may take his wife with him when he goes to North Malabar, and thus has no necessity to form a Sambandham there with a woman of North Malabar.
9. She may not.
10. Prohibited originally by Parasu Râma, and afterwards by the Native Rajas that subsequently ruled the Country.
11. It is on menstruation that females attain the right to cohabit with a male. If on menstruation a woman does not do so, according to Sastras she incurs the evil consequences which would arise from abortion. A girl has four stages according to her age and has an appropriate name at each stage. She is called Kanyâ at 8, Rohini at 9, Gourî at 10, and Rajaswala afterwards.

According to this 'pramânam' (authority) the girl has to be disposed of in her 8th year, during the so called Kanyaka period which is before maturity. The Marumakkathâyam people also celebrate the Kalyânam before puberty. The Kalyânam is not a marriage (vivâham) which entitles the man who ties the tâli to lordship over her. It merely entitles the girl to a right to cohabit with a man. The tâli of the girl must be tied either by one of her own, or of a higher caste. The people feast the Brahmins and their own people as their means permit.

12. The person to tie the tâli differs in the case of different castes. In the Calicut palace it is tied by one of the Kodungalûr (Cranganore) royal family. Among Sâmandans, and Sudras of rank such as Karthâkanmar, by Kshatriyas, not belonging to the ruling families. Among Chârnavars, by Nedungâdis; and among most of the rest of the Sudras by one of their own division. Those who tie the tâli are not called by any particular name, such as Bhartâvu (husband), or Manavâlan (Bridegroom).

13. Yes.

14. No. Because the ceremony is not a marriage (Vivâham) such as to give the man lordship over the woman.

15. If the girl desires it, she can form Sanbandham and cohabit with the man who tied the tâli, just as she can with others.

16. Yes. In the royal families of Cochin and Travancore it is mostly the case for the man who ties the tâli to form Sambandham with the female. I know many instances of such Sambandham having taken place in British Malabar.

17. Among the Sudra and Kiriya divisions, there is pollution. Among other Sudras, if a man of the same division who had been a Sambandhakkâran for a very long time, dies, his wife and children have pollution.

18. Yes. In poor families, as the members cannot afford to bring a man to tie 'tâli,' and to feast the people, the mother ties the tâli before a God. This is however very rare.

19. The answer to this question is included in the answer to question 11.

20. In certain places in South Malabar, when a girl is about to form Sambandham, the relatives and other required persons are verbally told of it and their consent obtained. Beyond this, no formalities are observed. In certain other places, when a man forms Sambandham with a woman of his own division, besides informing the relatives and feeding the Brahmins and distributing among them betel leaf &c., some charity is also given. In North Malabar this form of Sambandham is called "Pudamuri kalyânam". They perform certain ceremonies on the occasion, the details of which I do not know.

21. The consent of the Kâranavan and others is obtained for the Sambandham. No other formalities are observed.

22. I do not know the custom that obtains in North Malabar. As I have in answer to question No. 20 stated the few differences in the formalities observed in South Malabar in regard to Sambandham, I do not repeat them here.

23. Yes. Provided she has the consent of the first Sambandhakkâran, the woman may arrange for Sambandham with others according to her discretion.

24. Yes. There is: *Vide Kêralamâhâtmyam*, chapter 49.

25. She can terminate the Sambandham only with the consent of her Kâranavan. She cannot of her own accord do so.

26. No formality whatever.

27. Yes.

28. If he chooses, there is nothing to prevent it.

29. In her own house. If however the Sambandakkâran is a great and rich man, and takes her to his own house, she sleeps and takes her meals in his house.

30. I do not know the custom of North Malabar.

31. If the woman resides in her house he has to pay for all other expenses save that of food, and if she resides in the house of the Sambandakkâran she is supplied with food from his tarawâd property, and the other expenses are paid for by the Sambandhakkâran from his self-acquisitions.

32. Those devoid of intelligence and affection often change Sambandham, and form new ones; but this cannot be said to be the general custom. The husband and wife ought to stick to each other for life; and they generally do so.

33. If the wife and children live with the Sambandhakkâran, his tarawâd supplies them with food, and he supplies their clothing and all other expenses.

34. It is customary for the Kâranavan to give a small allowance to Anandaravans who work for the tarawâd. In rare instances an Anandaravan takes tarawâd property on rent. In such cases the Anandaravan takes for himself any surplus over the rent.

35. Some do both.

36. Some maintain their family and children with their earnings; and some pay them to the Kâranavan.

37. I am not certain whether amongst Nayars and Tiyaars in North Malabar the children have any right called Puthrâvakâsam. I have never heard or known of such a right in South Malabar.

38. Marumakkathâyam is the rule in the Kovilagams of Trevandrum, Cochin, Calicut, Chirakkal and Valluwanâd, and in these families no one except men of the higher castes, viz, Brahmins or Kshatriyas are allowed to form Sambandham with the females. This being so, it would be a matter of difficulty for these families to make use of a (marriage) law. It will not be objectionable to those who desire it to secure validity to their marriage, and to enact that a portion of their self-acquisitions should go to their children. From such a marriage it does not of necessity follow that *pulu* (death pollution) and *Srâdham* (funeral oblations) need be observed (by the sons?).

39. I don't approve of either way. Most Malayâlis consider that it is very disgraceful for females to go to public places. As Kâzis are appointed by Government, for the Mâpillars, I think, a high casteman may with advantage be appointed (as Marriage Registrar) to meet the wants of all castes.

40. I think there will be some differences, but until the Act is passed and begins to work, I cannot explain them.

41. Nil.

42. The prevailing practice is to break-off the Sambandham, if either party does any thing which disgusts the other, or if either of them leaves undone those things which ought to be done.

43. Vide answers to section 31.

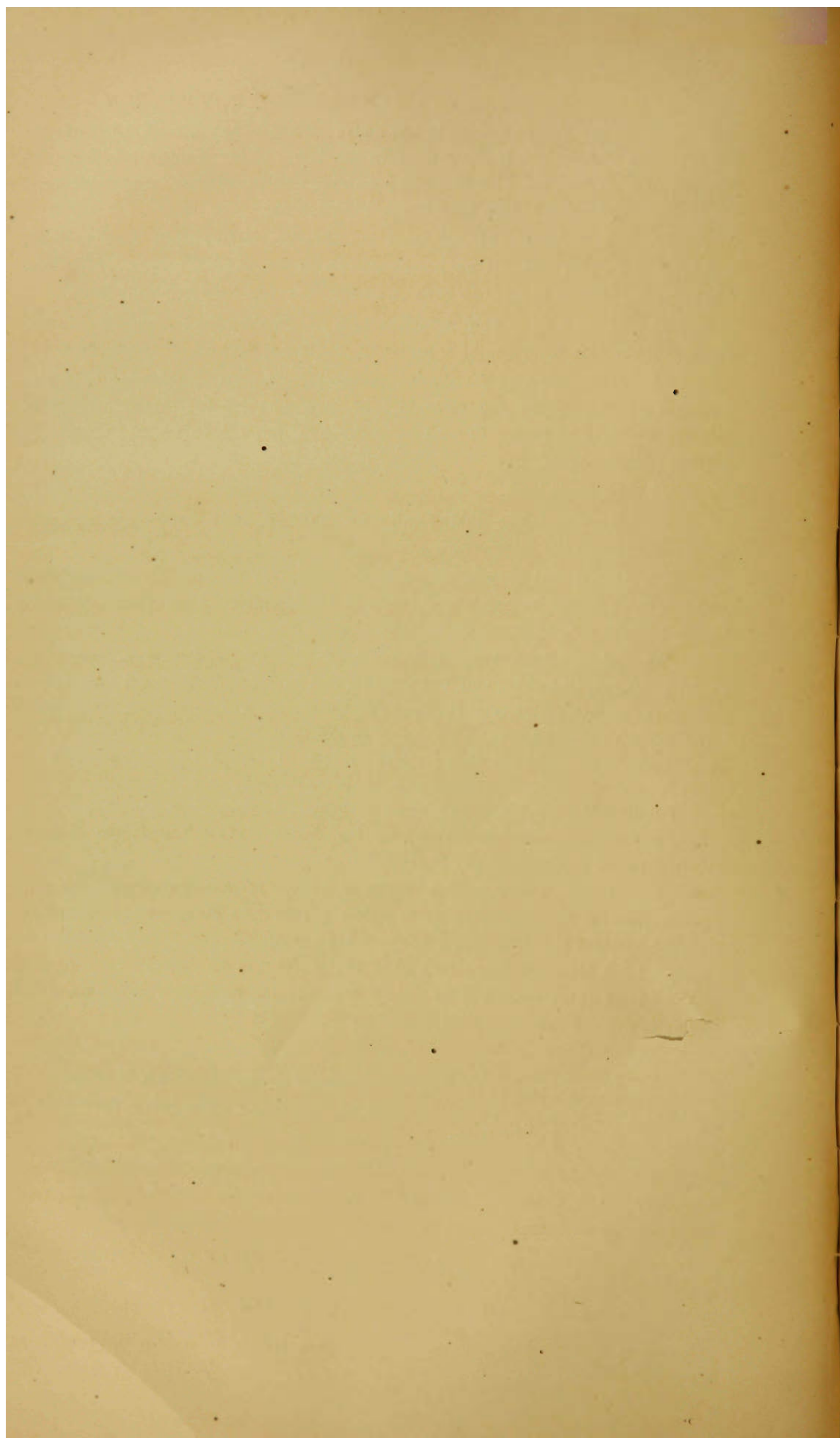
44. Vide answers to section 38.

45. Yes.

Signed. ERĀLPĀD, OR ELAYA RAJAH OF CALICUT.

[True translation as near as may be]

H. M. WINTERBOTHAM,
Collector on Special duty.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M.R.Ry. THE PADINYÂRÊ KOVILAKATH VALIA TAMBURÂN, Avargal,
(SENIOR OF THE WESTERN KOVILAGAM, A BRANCH
OF THE ZAMORIN'S FAMILY),

CALICUT.

1. Among those, who follow the Marumakkathâyam custom, a man of the higher class is allowed to make Sambandham with a woman of the lower class.

2. But certain classes of the Ambalavâsis (temple servants) are not allowed to have Sambandham with women of the Kiriya division (the highest class of Sudras in Malabar).

3. Certain classes of Nayars cannot form Sambandham with each other such as the Chârnata, Sîttakar, Vatakkât &c.

4. If persons, who, by custom, are prohibited from forming Sambandham, do form it, they will be forced to discontinue the Sambandham and be subjected to penalties and considered out-castes.

5. Even after making atonement, a Sambandham of the kind mentioned above, cannot be recognised.

6. The caste observances differ in North and South Malabar, the Kôrapuzha is the dividing line.

7. There are rare cases in which Nayars of North and South Malabar have contracted Sambandhams.

8. A Nair of South Malabar can form Sambandham with a Nair woman of North Malabar.

9. Really there is no objection to a Nayar woman from North Malabar crossing the Kôrapuzha.

10. The present prohibition to cross the Kôrapuzha originated in the supposition that foreign travel would cause people to break caste-rules. The prohibition was perhaps made by the former kings of the country.

11. The performance of the Tâlikettu kalyânam indicates that the girl has attained marriageable age. It is in vogue with slight alterations both among the Makkathâyam and Marumakkathâyam people. As it is an auspicious act it is designated "kalyânam". The chief performance in it is the tying of the tâli at the Muhûrtam, with marriage rites and adorations to the Deity. The preliminaries take about two days and the whole thing occupies six days.

12. The tâli is tied among the Makkathâyam people by the father: among the Sâmandhans, Kshatriyas, and Nair chiefs,—by the Kshatriya Tirumulpâd: in some parts of South Malabar, by the Nedungâdis, and in other parts by the relatives: in North Malabar by the household priest, or Elayath, and relatives. There is no special name for the person who ties the tâli.

13. The Tâlikettu can be performed by the same man for one or more girls at the same time and place.

14. The person, who ties the tâli has no right to claim the girl as his wife.

15. The Tâlikettu neither creates the right nor the disability to form Sambandham.

16. I have not heard of an instance in which the person who tied the tãli has become the husband.

17. If the person who tied the tãli dies, there is no pollution to the girl.

18. In some places, the mother of the girl does tie the tãli.

19. The performance of the tãlikettu kalyânam for all Marumakkathâyam girls before they reach the age of puberty is the proper thing. It is in conformity not only with the practice, but also with the ruling in the Shastras. People who do not observe this practice are subject to *prâyaschitham* (a fine as an atonement).

20. When, after tãlikettu, a girl desires to take a husband, an auspicious day is fixed on which the Kâranavars, relatives and friends of both parties meet together at the house of the girl, and with marriage ceremonies, begin the Sambandham.

21. In case a person of high caste forms Sambandham with a Nayar woman, the same practice is followed.

22. There is no difference in North and South Malabar in the practice of forming Sambandham.

23. A woman cannot have more than one Sambandhakkâran at the same time.

24. It is objectionable.

25. A woman is at liberty to terminate the Sambandham.

26. When a Sambandham is to be broken off both parties have to intimate their wish to their respective karnavars, who dissolve the Sambandham.

27. Males are allowed to have Sambandham with more than one woman at a time.

28. There is nothing to prevent this.

29. During the period of Sambandham, the parties can live, at either of their houses according to their pleasure.

30. The practice is the same in North and South Malabar.

31. According to custom it is not obligatory for a man to maintain his wife and children, but if the latter live with the husband in his own house, he is bound to support them.

32. It is not a practice among respectable people to change the Sambandham often: but it is not obligatory to continue it till death.

33. If a woman lives in her own house with her husband, and if children be born to him, he is not bound to maintain them: but in the instance mentioned in para 31, he must.

34. The Anandaravars are not remunerated if they work for the maintenance of the tarawâd. Often they obtain tarawâd lands on rent, and dispose of the excess of the produce, according to their will.

35. The Anandaravars work for the maintenance of the tarawâd as well as for themselves.

36. The Anandaravars give their earnings to their Kâranavars, or utilize them in supporting their wives and children, or spend them in any way they please.

37. In North Malabar, the property given to a person by his father is called "son's share" or "*Putrâvakâsam*"; but in South Malabar it is called "Achchan Koduthatu," or "father's gift."

38. Though the Act in contemplation is a permissive one, yet as many are likely to conform to the provisions of it, it is likely to bring about the evils enumerated below :—

(a) The disgrace the couples have to subject themselves to, by going to the office of the Registrar with their guardians and witnesses, instead of making the Sambandham at an auspicious time without any pollution.

(b) The difficulty and expenses the parties have to undergo in getting evidence if they have to obtain a divorce.

(c) If adultery is to be proved in a Court to obtain a divorce, parties will be encouraged to commit adultery.

(d) If Anandaravars spend their self-acquired money for their wives and children, Kāranavars will neglect the education of their Anandaravars.

(e) Even if parents be fond of their sons yet they would neglect their education, as the wealth acquired by the son will not come to them (the parents) nor to the (parents') other sons and daughters.

(f) A man even if born in a very wealthy family, if he has no private property of his own, will find it difficult to get a wife.

(g) Tarawāds will not be recruited, as hitherto, by the accretion of the self-acquisitions of the members.

(h) If the wife and children are to have equal shares in the property of the father, dissensions would soon arise among them to settle the share of each, which may end in law suits.

(i) If a person of a high class marry a woman of a lower class, and then fall sick, he will have no one to nurse him, for his tarawād people will neglect him as they get no share of his earnings and the (low caste) wife and children are incapacitated (for attendance upon him).

There are many authorities, as well as immemorial usage, to show that among the Marumakkathāyam people the right to property whether belonging to the tarawād, or self-acquired, and the right to offer the funerals cakes, belong to the Anandaravars.

VYAVAHĀRAMĀLA.

- 1 “ബിജഃ ക്ഷത്രപചിധയാ”
“ലോകൈപത്യാ ലിധാസൃതം”

There are two sorts of offspring in the world, one from the seed, the other from the ground.

MANU SMRITHI.

- 2 “ക്ഷേത്രഭൂതാസൃതാനാരി ബിജഭൂതഃ സൃതഃ പമാൻ”

Succession through the woman is the ground : succession through the man is the seed.

and

- 3 “ബിജമേവ കചിക്ത്രേഷ്ടം സ്ത്രീയൊനിസ്സേവ കത്രചിക്”

In some places the seed is (considered) the chief element : in other places, the womb.

VYAVAHĀRAMĀLA AND KARTHYANA VACHANAM.

- 4 “യസ്യ ദേശസ്യ യോധമഃ പ്രവൃത്തഃ സാമുക്കാലികഃ”
“ശ്രുതിസ്മൃതിപിരോധേന ദേശഭേദേണൈവ ച”
“ദേശജാതികലാനാമ യോധമഃ പ്രാക്പ്രവൃത്തിതഃ”
“തഥൈവ തൈപാലനീയാ പ്രജാഃ പ്രക്ഷുഭ്യതേ നൃപാ”

That country will be glorious which follows immemorial usage without offending against tradition or sacred writ. Whatever be the ancient customs for each country, caste and tribe, they should be cherished. If they be set at naught troubles will fall upon the people.

39. If it is desirable to convert the Sambandham among Malabar Sudras into a binding marriage the form now in vogue is best. If registration is necessary the best plan is to have three or four caste men elected by the people for (groups of) two or three amsams, to register marriages.

40. The marriage laws shown in the margin differ from the practice now in force. They are shown below.

- (i). The husband can have a wife at the time of his marriage, but the wife cannot have a husband.
- (ii). The girl should be 12 years old.
- (iii). No difference.
- (iv). Marriage should be impossible if there is any impediment in the shape of caste, or religious observance.

41. It is not clear whether the 41st question refer to the questions only, or to the whole of the Marriage Bill as proposed.

42. The causes of terminating a Sambandham are any acts which engender mutual aversion.

43. There is no recognised practice among Nayars to give maintenance to their wives and children. It is given in proportion to the wealth acquired; and often according to good will, and pleasure of the donor.

44. If marriage is legalized by the Act proposed, there will be some new rights. My opinion is given below:—

(a) If the wife and children retain their right to the tarawâd property as members of it, the Kâranavan should be their guardian: if not, in transactions connected with the tarawâd property the husband, or father, will have to be made a party, which will lead to endless troubles. If the husband, or wife, embraces a new religion without mutual consent, all right to the property should be forfeited.

(b) If the wife and children continue to be members of the tarawâd, the wife should only be entitled to such maintenance as is given by the husband according to his free will. She cannot force him to give what she likes.

(c) If the guardian be the person named by me in (a) the same person should be guardian under this clause also.

(d) If the husband, or wife, die intestate, half the property should go to the survivor, and the other half to the tarawâd.

(e) Wills made by all sane persons of proper age should be valid: but if the testator neglects to make by his will proper provision for survivor and children the properties should be divided as stated in (d). If the deceased be the wife the just share of her property should go to the husband and children, and if the deceased be the husband, the share should go to the wife and children.

(f) Needs no modification.

45. Some of the Nayars in Malabar, Cochin and Travancore intermarry.

(Signed) PADINYARÉ KOVILAGATHA VALIYA RAJAH,

[True translation as near as may be].

H. M. WINTERBOTHAM,

Collector on Special duty.

MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. Ry. CHIRAKKAL KOVILAKATH KERALA VARMA VALIA RAJAH, Avargal,
RAJAH OF CHIRAKKAL,
NORTH MALABAR.

1. Yes.
2. No.
3. Sudra Nayar men may form Sambandham with women of the Chârnnathu (ചാന്നത്ത്) Division; but men of the latter class cannot form Sambandham with women of the Sudra Nayar division. Inter-Sambandham is further forbidden between members of the following sections of the Sudra Nayars themselves :—
 - 14 Illams beginning with Kambiyam Valappu,
 - 3 Illams beginning with Kunniyur,
 - 2 Illams beginning with Thêvanthrôn,
 - 2 Illams beginning with Thevathrôn,
 - 2 Illams beginning with Mukkâdan.
4. It subjects them to social penalty. Such persons will not be admitted into society. This is the penalty.
5. It cannot be validated by a 'Prâyaschitham'.
6. Korapuzha.
7. The practice as to Sambandham is not reciprocal. The Nayar men of North Malabar form Sambandham with Nayar women of South Malabar.
8. A Nayar of South Malabar cannot form Sambandham with a Nayar woman of North Malabar.

There has never been such an instance.
9. They may not.
10. —————
11. This is a ceremony which girls between 9 and 11 years of age have to undergo. The 'Tâli' is tied by one of the same caste or by a Brahmin, and the occasion is celebrated with feasting and much splendour.
12. The custom varies with different sections in this respect.

The person who ties the tâli is not known by any special name in North Malabar.
13. Yes.
14. He does not; because there is another ceremony to effect Sambandham.
15. No objection.
16. I have known of no instance.
17. There is no pollution.
18. No.
19. Yes, Tâlikettu ceremony must be gone through before the girl reaches the age of puberty. There are cogent reasons for it.

20. Yes, several preliminary formalities such as the examination of horoscopes, making gifts, fixing an auspicious day and hour for the union, giving of cloth, and several other things have to be gone through by the bride and bridegroom, their fathers, Kâranavans and other relations.

21. The same formalities are observed, the only difference being that the Nambudiri, or Pattar, concerned does not take food at the bride's house.

22. No. They differ. The formalities are the same throughout North Malabar.

23. No.

24. It is prohibited, and the prohibition is founded on authority.

25. She cannot.

26. Yes. The husband is to come to the woman's house with his castemen and declare the dissolution formally.

27. He may.

28. There is no objection.

29. Either in her own house or in her husband's.

30. Yes.

31. Yes, according to his means.

32. Dissolution occasionally takes place in case of disagreement between husband and wife. There is also the practice of cleaving together for life.

33. The husband feeds and clothes them according to his position and means so long as he lives.

34. An allowance is made by the Kâranavan. The Anandaravars do cultivate Tarawâd land for rent, and may deal with the surplus as they please.

35. Both the customs are prevalent.

36. Do.

37. There is. When house, paramba, paddy lands &c., are given to wife and children, such voluntary gift made by husband and father is known as Puthrâvakâsam in North Malabar.

Probably some practice analogous to it exists in South Malabar also.

38. Yes. There is objection. Disagreement and dissensions between members of the family and others, ruin of tarawâd property, and numerous other evils would be the result of forsaking the customs observed from time immemorial.

39. As legislation is unnecessary to make marriage binding, neither registration of marriage nor the procedure proposed, as specified in the question, is required.

40. (1) A man having his wife living may form Sambandham with another woman.

The woman cannot do likewise.

(2) There is no such restriction.

(3) The consent of the parents of the parties and of all their kinsfolk is necessary, whether they be above or below 21 years of age.

(4) The provisos referred to in clauses (1) and (2) admit of inter-marriage,—

(a) between persons belonging to the same *Kudumbam* (family),

(b) with a member of a *Kiriyam*, in cases where such Sambandham is prohibited,

- (c) between families differing in social status,
- (d) between the high castes and the low castes—

Such inter-marriages set at naught all caste and family distinctions.

41. As the proposed legislation is quite unnecessary I have no suggestions to make.

42. Adultery, want of agreement, incurable disease, barrenness &c., are considered reasonable grounds for dissolving a Sambandham.

43. The wife and children are maintained by the Tarawâd to which the husband belongs, or by the husband himself if the Tarawâd has not sufficient funds to meet the charge.

44. (a) Practically both the husband and the Kâranavan are at present the guardians of the wife and children. It would be prejudicial to the well-being of the wife and children to relieve the Kâranavan of his share of the responsibility.

(b) Practically the wife and children enjoy the support of the husband at present. It would lead to numerous suits and dissensions to make it compulsory.

(c) It is not advantageous to make the widow the sole legal guardian of the children.

(d) Litigation will increase and Tarawâds will go to ruin, and it will cause strife between the sons and nephews.

(e) There is no objection to the power of making Wills being legalised.

(f) No objection.

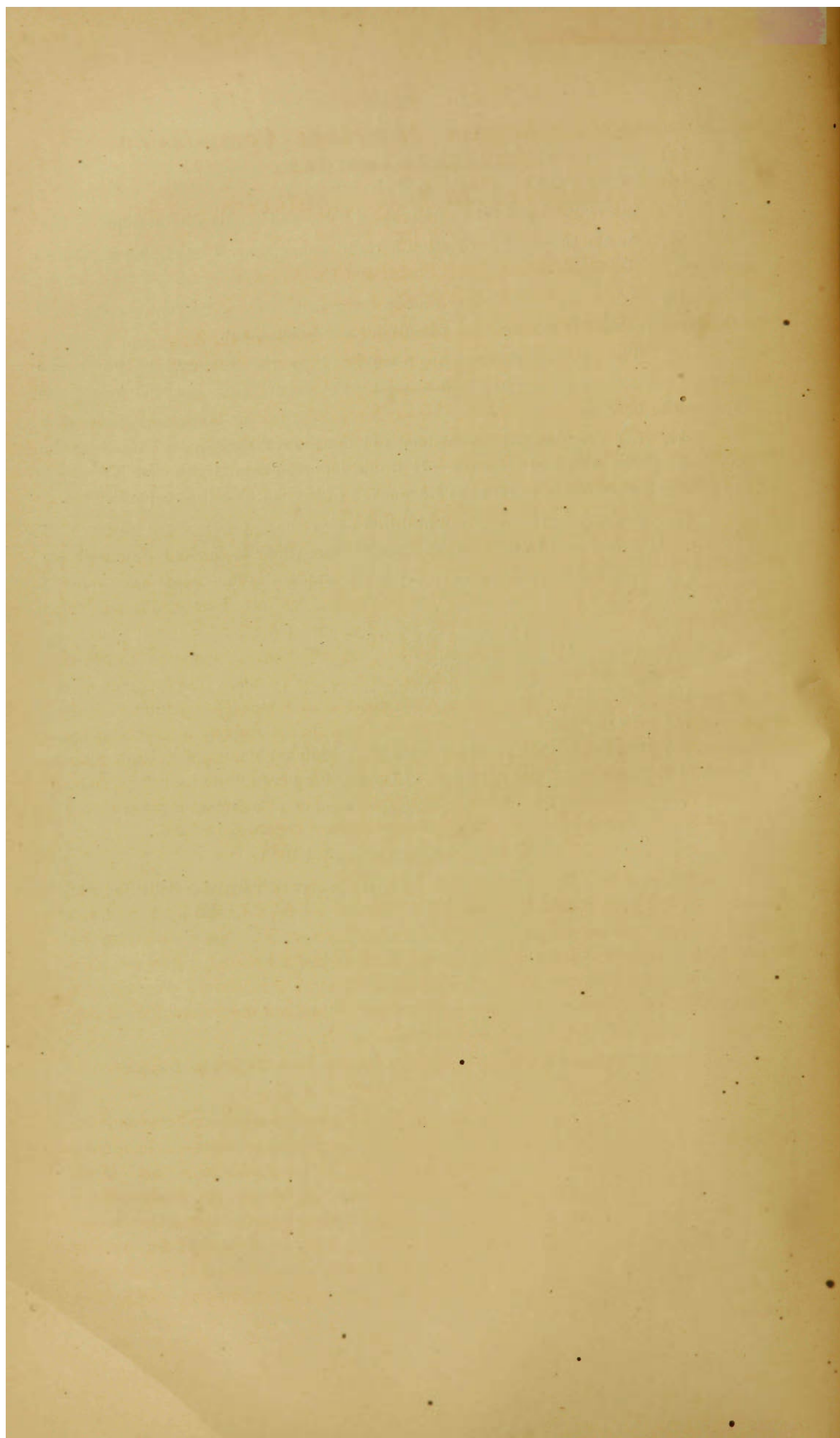
45. North Malabar people cannot form Sambandham with those to the South of Kôrapuzha. I am not aware of the custom prevailing elsewhere.

(Signed). KÊRALA VARMA RAJAH.

(True translation as near as may be).

H. M. WINTERBOTHAM,

Collector on Special Duty.



Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. ETTAN TAMBURAN AVARGAL,

Padinyârê Kovilagam.

(NOTE.—This gentleman is a member of the family of the Zamorin Maharajah Bahadur, and is a learned Sanskrit Scholar.)

1. Amongst Nayars and other higher castes who follow Marumakkathâyam, a man of a higher division can have Sambandham in a lower division. This is sanctioned by Yâgnya Valkya Smriti, Manu Smriti, Parâsara Smriti, &c. In Yâgnya Valkya Smriti it is stated thus :—

(Purport of Sloka.)

“A Brahman can form Sambandham in the three lower castes, namely, Kshatriyas, Vaisyas and Sudras, and a Kshatriya in the two lower castes next under him &c.” Therefore it is clear that higher caste people can form Sambandham in the lower divisions.

2. The same liberty is not accorded to a woman, because a woman can form Sambandham only either in her own division or in a higher one. The children of a man of higher caste by a low-caste woman are called Anulômams (Anulômam=anu+rômam : going with the hair *i. e.* not against the grain) ; children by a woman of his own caste are named Samajâthi putras. If on the contrary a woman of high caste has issue by Sambandham with a man of low caste, they are known under the name of Prathilômams (Note—going against the grain). The Anulômam issue are considered as of pure blood while the Prathilômam issue are regarded as base.

(Slôka) From Yâgnya Valkya Smriti

“A son born to a Brahman woman by a Kshatriya is called a *Sûtha*; likewise the son of a Brahman woman by a Vaisya is called a *Vaidêhaka*, and by a Sudra, a *Chandâla*. These (three are) excluded from all *Dharma*. The son of a Kshatriya woman by a Vaisya is called a *Mâgadha*, and by a Sudra, a *Kshatha*. The son of a Vaisya woman by a Sudra is called an *Apôgava*. The son of a *Karani* woman by a *Mâhishya* is called a *Rathakâra*. Those born from Prathilômam and Anulômam are to be known respectively as impure and pure.”

It is in accordance with these principles we say that the above concession is not extended to women.

3. There are certain divisions among Nayars between whom no Sambandham can be formed. Vattekkâtt Nayars and Pallichâns cannot have inter-Sambandham. Like these divisions are the Nayars known as Kâvil Ambalavâsi and Urâli Nayars. There are many other similar divisions. Moreover no Sambandham can be formed between any two of the following divisions namely Vattekkâtt Nayar, Urâli Nayar, Pallichâns, Kâvil Ambalavâsi Nayar. This is accounted for by the assignment in former days by Parasu Rama, and divers great men, to each of these divisions, of a particular profession and by the differences in custom which they established.

4. If a man and woman belonging to different divisions between which Sambandham is not customary, form Sambandham, they would be liable to social punishment, which consists in expelling them from society by their caste people, on occasions of great feasts and festivities, such as Tâli-kettu Kalyânam.

5. Such Sambandham cannot ordinarily be validated by Prâyaschitham.

6. It is a well-known fact that Kôrapuzha is the boundary which separates South Malabar from North Malabar so far as caste observances are concerned.

7. The Nayars of South Malabar do not generally form Sambandham with those of North Malabar and *vice versa*.

8. There would be no objection whatever to a Nayar of South Malabar forming Sambandham with a Nayar woman of North Malabar, but impediments to this arose, I think, partly owing to the restrictions imposed by the Rajahs of South and North Malabar, who were at enmity in former times, and partly to the difficulty experienced by people in getting from a distance accurate information regarding the caste, whenever they wanted to effect a Sambandham, and the like causes.

9. There exists no absolute objection to a Nayar woman of North Malabar going South of Kôrapuzha. The causes which led to this prohibition appear to me to have been :

(1) The restrictions laid down by the two Rajahs as described in the foregoing answer.

(2) If the women were allowed to travel as freely as they pleased, they would enter into all sorts of connexions forbidden by caste regulations and customary usage, which would undermine caste observances, and would remove caste distinctions, so much so that all classes would be reduced to the same level, and lead to other similar evils. It is clear from the following quotation from Bhagavatgîtha that if the women fall and become degenerated it would be productive of enormous evil.

(Purport of Sloka.)

“ O ! Krishna ! from the increase of vice (even) family (chaste) women become sinners. O ! descendant of Vrishni (Krishna) ! when women are bitten (corrupted) confusion of castes is the result. The wages of this confusion will be hell even to the race of such as destroy the purity of families, for their forefathers will sink into hell, being deprived of *Pinda* (funeral cake), *Udagam* (holy water) and *Kriya* (funeral rites). By these vices of the destroyers of families, which produce mixtures of castes, the long established religious observances of castes and of families are up-rooted.”

10. It is unnecessary to give an answer to this question as it is obvious from the answer to question No. 9.

11. Tâli-kettu kalyânam is a ceremony somewhat akin to the marriage (Vi-vâham) rite of the Makkathâyam people, but among the latter the man who ties the tâli (or accepts the hand of the woman) becomes the husband of the girl. As Parasu Rama forbade to the women of this Kêralam, which is the land of Parasu Rama, the observance of chastity, it is not necessary that he who ties the tâli should, as already stated, become or remain husband of the girl. It has been ordained by Parasu Rama that in Kêrala, Marumakkathâyam women need not be chaste, and that non-observance of chastity should entail no evil. Vide chapter 48 of Kêrala Mahâtmyam.

"Among the folk of this land, in this my country, among all castes, among all Sámantás, and among all other women likewise, let there be no chastity. But as for the wives of Brahmans and of *Dwijás* (twice-born classes) let the rule of chastity stand in regard to them; with other residents let there be no rule of chastity. Behold I declare the truth."

I will now briefly speak of the *Táli*-tying ceremony. When the girl attains her proper age for this ceremony, her *Tarawád* people, in consultation with their kindred, fix an auspicious day for the ceremony. They then make arrangements for celebrating the event in a manner befitting their circumstances. Three days prior to the appointed day, they begin the celebration by the performance of preliminary formalities such as placing rice in the palm of the girl. On the *táli*-tying day they feast the Brahmans and distribute gifts to them. And at the auspicious moment the *táli* is tied by a man qualified under the caste rules for the purpose.

12. The man tying the *táli* is different for different castes. For instance, Kshatriyas have Brahmans : Sámantans get Kshatriyas to do it; and among higher divisions like Kiriyañhil Nayars, the ceremony is performed by a fellow caste man or one of the *Elayad* division. Among some of the *Náduvázhis* it is generally done by Kshatriyas. *Nedungádis* do this for *Agathittaparisha*. For the rest of the Sudras, men of their own caste perform the rite. Though there is not a common name for the *táli*-tying person, in some places he is occasionally called *Manaválan*.

13. It is customary to have the *táli* tied for a number of girls at the same time and place. This generally takes place in cases in which the people have the ceremony performed by the members of a select and respectable family with certain dignities attached thereto. When the members of that particular family are few in number, and the girls to be invested with *Táli* many, the necessity for the practice of having one man for a number of girls is apparent.

14. The person who ties the *táli* does not thereby obtain an enforceable right to cohabit with the girl, nor is there any objection to his cohabitation with her. Under the principles enunciated in *Kêrala Mahâtmyam*, which I have already set out in para 11, *Marumakkathâyam* castes created by *Parasu Rama* in this *Kêrala* are exempted from the observance of chastity, and are thereby guilty of no sin. And it is this that has led to the absence of an enforceable right in this respect.

15. There is no prohibition to his forming *Sambandham* in the usual manner with the girl and then cohabiting with her.

16. I have known instances in which the persons who tied the *táli* have become the husbands of the girls.

17. Generally there is no pollution to the girl when the person who tied her *táli* dies. The *Pushpagans* and in some places, the *Kiriyañhil* Nayars observe such pollution.

18. Occasionally the *táli* is tied by the girl's mother, instead of by a man. This is generally done by those who cannot, for want of means, afford to celebrate it according to established customs.

19. The *Táli-kettu* ceremony among *Marumakkathâyam* people should be undergone before the girl attains her puberty. To justify this statement there are recognised authorities besides the long standing customs observed throughout the country.

20. Further formalities when a girl desires to consort with a man after Tâlî-kettu kalyânam are necessary, such as, giving intimation of the matter to their kindred and obtaining their consent, appointing a day for the Sambandham, conducting feasts on the day according to their circumstances, and then completing Sambandham between the man and the woman.

21. When a Nayar woman forms Sambandham with a Nambûdiri or a Pattar it is not usual to observe the same formalities as are observed when the Sambandhakâran is a Nayar. When the Sambandhakâran is a Nayar, feasting and special cakes and sweetmeats according to customary usage are provided. When the husband is a Nambûdiri or a Pattar, such specialities would alone be absent.

22. I understand that the formalities attending Sambandham are almost the same in North and in South Malabar.

23. A woman of respectable Tarawâd cannot have Sambandham with as many men as she pleases at one and the same time.

24. Vide answer to question 23.

25. If a woman wishes to terminate Sambandham there is no objection to her doing so, but it would not be quite becoming (virtuous) if it is terminated without proper reasons.

26. There are some formalities to be observed to dissolve a Sambandham. The grounds of the intended dissolution should be placed before proper persons concerned, and intimation of the dissolution should be given.

27. A man may have Sambandham in more than one house at the same time. He is not prohibited from so doing. This is sanctioned by Smritis and Purânas.

28. The answer to question No. 27 will suffice.

29. According to Marumakkathâyam during Sambandham the woman has her bed and board in her own house.

30. It appears that the custom is almost the same in North and in South Malabar.

31. According to custom the man is not bound to support the wife and children during Sambandham; but he should give cloths and oil according to his means.

32. It is not the common custom to change Sambandham frequently. This is done only when there are reasonable grounds. I have seen many persons remaining as husband and wife till death.

33. When a woman lives with her Sambandhakâran in his house and bears him children, the father provides food and clothing for the children, only so long as they are in his house. At other times when they live in their own (mother's) house they should be maintained from the Tarawâd.

34. If the Anandaravans work for the Tarawâd, the Kâranavans would grant some allowance as they please. In some places in certain Tarawâds the Anandaravans cultivate Tarawâd lands on pâttam. In such cases they are permitted to enjoy the surplus, if any, just as they please.

35. The Anandaravans generally work for the Tarawâd but there are Anandaravans who work for their own private advantage.

36. There are Anandaravans who support their wives and children with their own acquisitions. There are also those who give whatever they earn to the Kârana, van to be applied for the welfare of the Tarawâd.

37. I am not well aware of the existance of such a thing as Puthrâvakâsam in North Malabar among the Nayars and Tiyaṇs who follow Marumakkathâyam.

38. There are objections to making a law, even though it be not compulsory, for legalising a form of marriage among the Marumakkathâyam Hindus. The grounds of objection are as follows:—First, it would be opposed to the present custom which has been observed equally by all Hindus who follow Marumakkathâyam from time immemorial. Secondly, the noble families having dignities and prerogatives attached to them, the ladies of which cannot take anything from their husbands, will neither flourish nor prosper in consequence of the male members of such families following, as may be expected in course of time, the proposed marriage system. Thirdly, dissensions between the members of the Tarawâd will increase as a necessary consequence of this. Fourthly, it will open the way to increase of litigation and unnecessary waste of property. Fifthly, the women who marry under the proposed law would come to find that all kinds of property left by their rich husbands after their death would be theirs. These women would not be under any restraints (such as prevail in Makkathâyam) in remarrying and living in luxury after the death of their husbands. These circumstances may tempt adulterous women even to wish for the death of their husbands, and hence great evils are to be apprehended. Sixthly, Marumakkathâyam people cannot secure (Urdhagathi) salvation of soul after death by the performance of obsequies by their sons. In such circumstances if the properties are to be transferred to other Tarawâds, namely to the sons under the proposed law, the Anandaravans would be dissatisfied with their Kâranavan and the result would be an obstacle in the way of getting salvation through them. Seventhly, when a father lies sick on account of some disease or other, his sons of a lower caste and of different Tarawâd would not become useful to him. In such cases only the Anandaravans would be serviceable to him. And lastly, many other circumstances which might produce evils to the people in general.

39. If legal sanction is considered necessary for Sambandhams, to secure evidence of validity of marriage, I would propose to have it registered before some person elected by the people from the respective villages, either a Brahman or two Nayar Commissioners selected from the respectable Sudra Tarawâds.

40. It is clear that the conditions of a valid marriage differ widely from the Sambandham recognised in practice.

41. This I am unable to answer without the Bill.

42. The reasonable grounds according to social usage for dissolving a Sambandham are :—

(1) Incurable disease such as leprosy, (2) Misconduct, (3) Ill-feeling between the wife's and husband's people.

43. The existing usage as to giving maintenance for Nayar wives and children is simply to give them cloths, oil and other things, except food expenses.

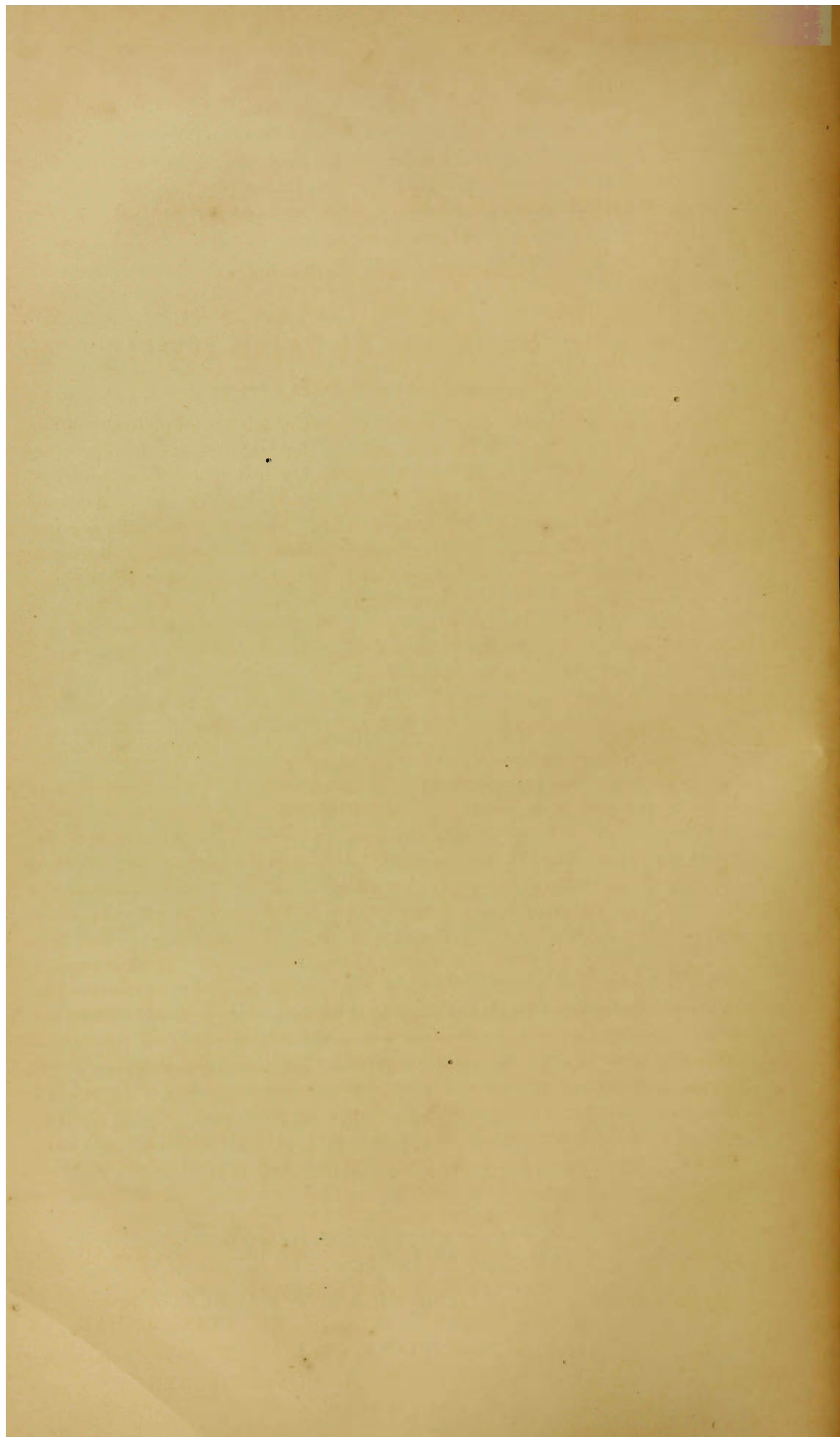
44. I record no opinion as to the new rights incidental to the proposed form of marriage.

45. I am not aware whether intermarriages are permitted between the Nayars of Malabar Proper, Travancore and Cochin.

(Signed) ETTAN TAMBURAN.

(True translation as near as may be.)

H. M. WINTERBOTHAM.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. MANA VARMA RAJAH AVARGAL,
KADATHANÂD—PORLÂTIRI RAJAH.

38. In Malabar there is at present a marriage law according to the custom that has the force of law. There is no necessity for making a law in accordance with the present Bill. By a law of this sort, the few that follow it are permitted to act against the law of the country, and the Society to which they belong, and there will be occasion for the existence of contrary systems of marriage and customs, not only in the same country and society, but in the same family, and consequently there will be room for disunion, strife, and litigation, among the members of the same Tarawâd. In addition to this, in the case of the Kâranavan giving higher education to the Anandaravans by means of Tarawâd funds there will be a stop to it, by fear that his motive in educating them might be frustrated as the acquisitions of the Anandaravan by means of his learning might not be used for the benefit of the Tarawâd. And so in the course of time there will be occasion for the stoppage of the advancement of learning in the country.

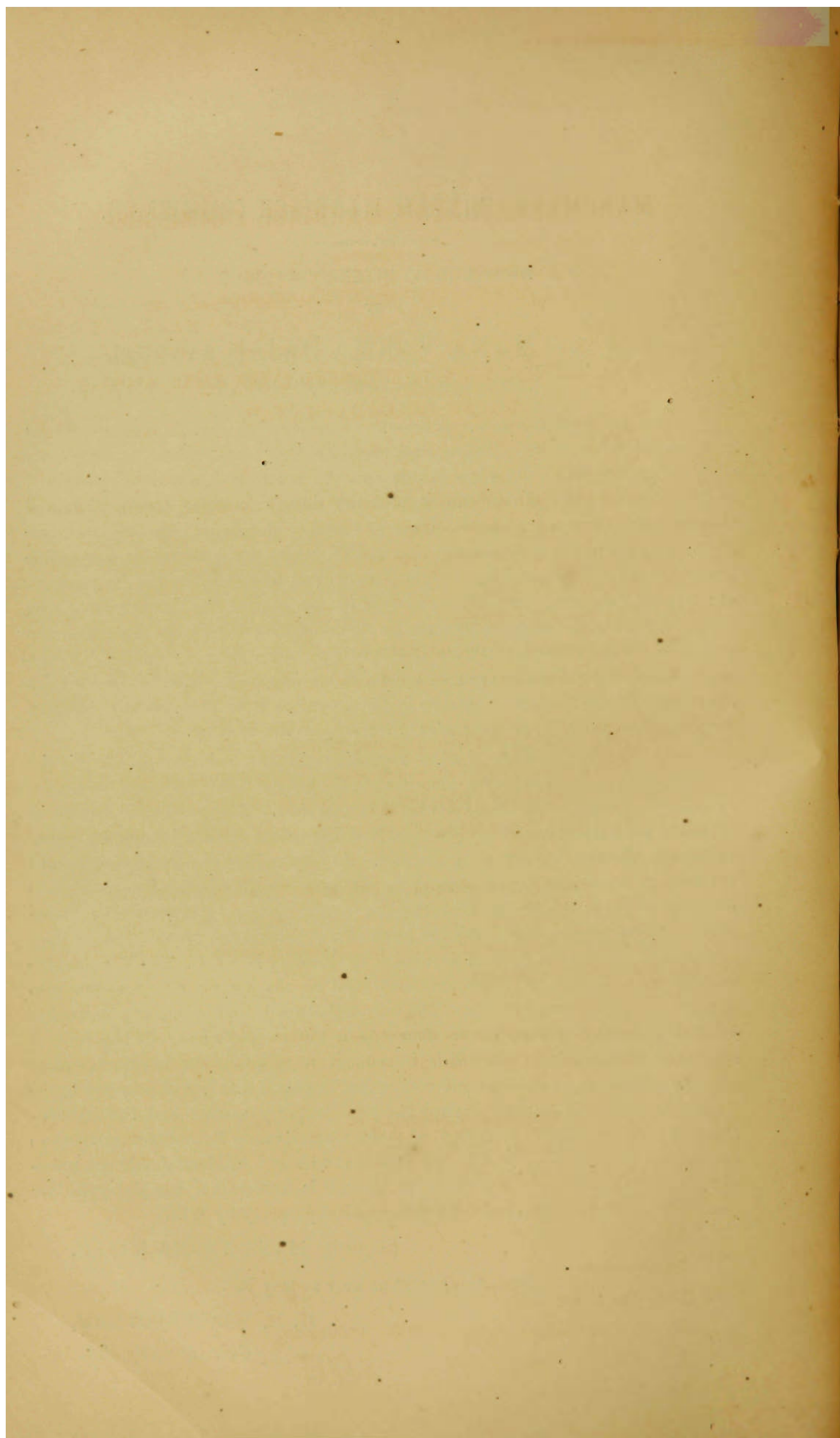
44. In this Section, the law regarding the succession to property is the thing that gives great room for complaint to the people. This system of succession is entirely opposed to the Marumakkathâyam system. The permissive nature of it will in practice be found delusive and it will in course of time become an engine to destroy Marumakkathâyam by the root. As long as Marumakkathâyam remains the form of succession in the country to establish another form of succession is contrary to the justice of the Government, and in trying to discredit the Marumakkathâyam system, which has the force of law, there is no greater justice than in trying to change the form of succession of the other Hindus. The Marumakkathâyam system is just as reasonable and legal as the system of succession prevalent among the other Hindus. The only difference is that in one the succession is in the father's line while in the other it is in the mother's line. If the form of succession advocated by the Bill is introduced it will, like the marriage, create adversity, disunion, dissension and consequent litigation and loss of property in the Tarawâds, and it will entirely destroy the joint property system and the indivisibility of property which the natives of other countries long for and are striving to establish in their midst. If it is desirable that wife and children should get something more than what is now given to them it is sufficient if the Malayalis are given the power to dispose of their self-acquired property by Will.

(Signed) MANA VARMA RAJAH.

[True translation as near as may be].

H. M. WINTERBOTHAM,

Collector on Special duty.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. Ry. AYANJÊRI KOVILAGATH KRISHNA VARMA RAJAH, Avargal,
RAJAH OF KADATHANAD.

1. Yes.
2. No.
3. Yes, but Urâli (Masons), Râvâri (Traders), Kusavan (Potter), Vânian (Oil monger) these cannot inter-marry.
4. Yes. They will be excommunicated.
5. Cannot.
6. The river Kôrapuzha.
7. As a rule they do not intermarry.
8. Not objectionable; though not now in practice.
9. No.
10. Interdicted by the then reigning prince.
11. It is a preliminary rite to marriage. It is a mere tying of the "Tâli" on the neck of the girl at the auspicious time declared by the "sâstras".
12. It is done by a male of the same caste, or by a man of a higher caste.
13. Yes.
14. No: cohabitation takes place only after "Sambandham".
15. No.
16. Yes. It has been in practice in the royal families of Cochin, Travancore and Kolathiri (Chirakkal).
17. No.
18. Such a custom has not come to our notice.
19. The investiture of the Tâli, before puberty is compulsory. Custom is at the bottom of it.
20. Yes. The customary ceremony of "pudamuri" should be performed.
21. Nayars should place the cloths in the girls' hands; but Nambudris and Pattars (other Brahmins) do not.
22. The whole of North Malabar follows the same custom.
23. No.
24. —————
25. Yes. She can.
26. No formalities, except reliable intimation.
27. Yes.
28. No objection.

29. Either in her own house, or with her husband. Both usages are to be found.

30. The difference is only in degree. South Malabar females in most cases live in their own houses.

31. The husband maintains his wife and children when they live with him.

32. Divorce takes place very rarely. Man and woman live in wedlock till death separates them.

33. Yes. When in his house.

34. They are remunerated. They hold lands on Pâttam (rent) from the Tarawâd. They can do what they like with the profit.

35. Both practices are followed.

36. Both practices are followed.

37. It has not come to our notice.

38. To pass a law according to the present Bill, is quite against the wishes of the Hindus who follow "Marumakkathâyam", for this law will in course of time upset "Marumakkathâyam" altogether. Hence people will violate the existing rules and customs, and sink into sins recited in the sâstras.

39. "Sambandham" as it now stands requires no law to make it as valid as marriage. It would be enough if Courts admit the validity of "Sambandham" as enjoined by the "sâstras."

40. (1) Yes. "Sambandham" as it is now, allows a husband to marry another female during the life-time of his wife.

(2) It is enough if the girl is 12 years old.

(3) Kâranavans' consent can never be dispensed with.

(4) The two provisoes as indicated in the fourth clause, are against law and custom. The members of one Tarawâd, however distant they may be, can never intermarry, neither can they marry into lower castes.

41. In our opinion, no marriage law is at all necessary.

42. Jealousy and adultery are the main causes.

43. The husband maintains the wife and children so long as they live in his house.

44. These privileges are certainly conducive to the welfare of "Makka-thâyam," and quite derogatory and ruinous to the interest of "Marumakkathâyam."

45. We are not aware of it.

(Signed). ĀYANJĒRI KOVILAGATHA KRISHNA VARMA RAJA,

[True translation as near as may be].

H. M. WINTERBOTHAM,

Collector on Special duty.

MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. Ry. VALLAPUZHA MANAKKAL ASHTA MÛRTHI NAMBÛDRIPÂD Avargal.

A WEALTHY NAMBÛDRI LAND-LORD,

WALLUVANAD TALUK.

1. Of the eight forms of marriage *viz.*, Brahman, Ârshwam, Daivam, Prâjâvathyam, Âsuram, Gândharvam, Râkshasam and Paisâcham, Manu has prescribed Paisâcham to Sudras, and therefore there is no objection to Sudras intermarrying, if the parties like between castes which do not pollute one another by touch.

2. A woman of a higher division cannot accept a man of a lower division as husband. Such a connection is repugnant in the eyes of the Shastras.

3. All sections among Nayers cannot intermarry. At present there are six sub-divisions of caste amongst Nayers who have no pollution by touch and who can enter the temples. They are (1) Kiriya, (2) Sudra, (3) Chârnathu, (4) Vattêkât, (5) Athikurissi and (6) Pallichân. Of these six castes (men of) the first *viz* Kiriya can form Sambandham with (women of) all the other sub-divisions, and the Sudras (in like manner) with the next four sub-divisions. Each of the remaining 4 sections can only have Sambandham within its own pale.

4. There is social penalty in case of Sambandham prohibited in para 3. For instance if a man of a lower division form Sambandham with a woman of a higher division, the woman and her offspring descend to the division of the man, and are repudiated by her tarawâd.

5. There is no Prâyaschitham in the case of a Sambandham formed within prohibited limit mentioned in para 4; nor is any Prâyaschitham in force in such cases.

6. Kôrapuzha.

7. The practice is of rare occurrence.

8. There is no objection to a Nayar of South Malabar forming Sambandham with a Nayar woman of North Malabar, provided that the caste rules are not infringed.

9. The Nayar women of North Malabar are not prevented from crossing to the South of Korapuzha.

10. I have heard it said that the practice had its origin in the feud that existed between the Rajas of the Nediyruppu (Zamorin) and Kôlathiri dynasties.

11. Tâlikettu Kalyânam means the tying of tâli round the neck of a girl. An auspicious hour is fixed for the purpose, and the friends and relatives of the girl's family are feasted at a banquet, attended with entertainment according to the circumstances of the family.

12. The tâli is to be tied by a youth who goes by the name of Pilla (bridegroom) till the ceremony is over, after which he is not generally called by that name.

13. If the man who ties the tâli be one of the same caste, it is usual for him to tie the tâli to a number of girls. The practice obtaining among the members of the Kiriya caste is that the tâli is tied by a Tirumulpâd to a number of girls, one after the other, the feet of the Tirumalpâd being washed afresh at each time.

14. The man does not obtain any enforceable right to cohabit with the girl by mere reason of his having tied the tâli.

15. There is nothing to prevent the man from forming a Sambandham with the girl provided she, her mother and her Kâranavans (*sic*) consent to it.

16. I know of a few cases.

17. Pollution is not observed by the girl on the death of the man who ties the tâli.

18. It is sometimes the practice among Nayars for the mother to tie the tâli.

19. The Tâli-kettu ceremony must be performed prior to the girl attaining her puberty. It is observed in accordance with the local usage, and the authority of the Shastras.

20. When Sambandham is to be formed subsequent to the Tâlikettu ceremony, certain formalities of the sort described in answer 11 are indispensable however small may be the scale.

21. When a Brahmin forms Sambandham with a Sudra woman the same formalities are observed as are mentioned in para 20.

22. Under the system of Sambandham observed in North Malabar, the bride and bridegroom invite their friends and relations, who accordingly attend the ceremony bringing with them pudavas (cloths) and money according to their means. These are kept in front of the *Nirapara* (full measure of paddy, or rice) and *Astamangalyam*, (the eight auspicious articles) placed in the pandal erected for the ceremony. After the feasting &c. is over the bride's father takes a pudava and delivers it to the bridegroom's mother, who requires the bride to wear it. Then a Vattêkât Nayar comes forward, cuts off one end from the cloth thus worn and gives it to the bridegroom to be worn by him. The bride then washes the feet of the bridegroom, and presents him with chewing material. Hand in hand the bride and the bridegroom go round the lit lamp, and the *Ashtamangalyam*, and take their seats in the inner court-yard. After this the bridegroom partakes of the milk conjee served by the *Enangan*, and at the same time serves the bride three times with the conjee out of his dish. None of these formalities obtain in South Malabar.

23. This is against respectability, and *Manu Smrithi* in particular which says that "whatever woman forsakes her husband and commits fornication with another, will be born a bitch, and remain so so long as the sun and the moon exists." In the *Vâsishta* it is also laid down that "any false woman who commits adultery will be born in the womb of lower animals, and will suffer great misery."

24. If she does so it is by following her own inclinations, and not with the authority of any *Sruthi*, *Smriti*, *Purâna* or *Itihâsa* (tradition).

25. If the wife is dissatisfied with the husband on several grounds, she is competent to divorce him. But she ought to obtain the consent of her mother and Kâranavans (*sic*).

26. In order to dissolve a Sambandham it is sufficient if the woman in the presence of her *Bandhus* (relations) tells the man the reasons for her discarding him.

27. It is permitted to a man to have more than one wife at the same time. But respectable men do not do so as it is opposed to their respectability and social status.

28. There is nothing to hinder it.

29. She takes her meals and sleeps either in her own house, or in that of her husband, as best pleases her.

30. Almost the same in both places.

31. If the husband loves the wife and children he supports them when they live with him. For this purpose the husband must have self-acquisition.

32. The husband divorces the wife when she by chance falls sick of long lingering diseases, and when she conducts herself contrary his wishes. It is not proper to divorce without any cause whatever.

33. When the wife and children live in the husband's house in amity with him, he maintains them.

34. Anandaravans generally ought to work for the good of the tarawâd in consideration of getting their meals &c. at the tarawâd expense, and beyond this nothing is customarily given to them from the tarawâd as a compensation. There is no objection to their taking the tarawâd lands on rent just as other tenants do and appropriating the surplus to their own use.

35. The Anandaravans interested in the welfare of the tarawâd generally work for its well being.

36. With their private earnings the Anandaravans generally contribute to the tarawâd, and also support their wives and children.

37. I am not aware of any thing called *putrâvakâsam* (son's right) in North Malabar, nor is there any thing similar to it in South Malabar. Manu Smrithi has "Just as the offspring of the cow, the mare, the camel, the female slave, the milch buffalo, the she-goat, the cuckoo cannot belong to those that begot them on the mother, even so is the case with children begotten upon strange women". It is evident from the text that Marumakkathâyam Sûdras have no *putrâvakâsam* among them.

38. (a) In the Mahabharata in answer to a Yaksha's questions Dharma-putra says "Each man has his own notions of right and wrong, and the Vedas contain passages contradictory to one another; nor is there a single sage whose opinion is considered to be of the highest authority. The principle of right and wrong lies in a cave. Hence the only means of knowing what is right and what is wrong is by finding out how great men have acted."

This lays down the great principle that we would be doing what is right if we followed the rules of conduct prescribed by great men.

(b) It is a very dangerous attempt to introduce among the Sudras the system of Makkathâyam in the place of Marumakkathâyam—a system ordained for the Sudras by the 16 famous sovereigns viz. Sagara, Bharata, Sibi, Yayâti, Mândhata &c., who had ruled the people in accordance with the Sastras in the early Yugas of Krita, Trêta and Dwâpara, and who had understood the Smriti of Manu, Yâgnyavalkya and others in accordance with the interpretations put on them by Vasista, Suka, Nârada, Vyâsa, and other Bramha Rishis, and by Viswamitra and other Raja Rishis.

(c) The ancients have not prescribed to the Sudras the system of Makkathâyam. The reason for this was that when rules of conduct were pres-

cribed for the several castes, the duty of "causing the satisfaction of desires of persons of the castes above him" was assigned to the Sudra, as the very term 'Sudra' indicates. A Sudra is more particularly bound to serve the Brahmins. For the Smriti says "Sudras are the servants of Brahmins," and "The Sudras' appointed path to heaven is serving the Brahmins." Hence it is clear that the Sudras are servants of Brahmins. In the Anusâsaniga Parvam of the Mahabhârata, Bhîshma says that to the servile women, and dancing girls, conjugal fidelity is not prescribed in any of the three worlds. Hence the practice of Brahmins, Kshatriyas and Vaisyas having sexual intercourse with servile women is in accordance with the Sastras. But a Sudra may marry only a Sudra woman. If a Brahmin wished to have sexual intercourse with a Sudra's wife the Sudra would be bound to gratify the wish. This is plain from the following passage taken from Vâlmîgi Ramâyanam where Risyasringa says "It is the duty of a servile man to be serviceable to the Brahmins in their bathing, eating, travelling, having sexual intercourse, lying down, and other acts." It is clear therefore that a Sudra cannot be sure of the true parentage of the children born of his wife. Hence the Sudras cannot follow the rule of Makka-thâyam.

(d) "It is mentioned in Vasistham that he who saves (the father) from the 4th debt (*i. e.* the debt owing to the Manes) and from the hell called 'Put' is called the *son*." Hence it is clear that a Sudra cannot inherit to his father.

(e) In Viduravâkyam in the Mahabhârata is a sloka which plainly says that "among the servile class the nephew is entitled to perform obsequies."

I am therefore clearly of opinion that the present proposal to do away with the Marumakkathâyam system at the instance of persons who are ignorant of, and who totally disregard, the Vedas and the Sastras, who are prejudiced and who argue upon no sound principle whatever, is the first grievous act of coercion exercised by a sovereign over the people in the Kali Yuga.

42. Vide answer to question 32.

43. The husband usually contributes a sum at his discretion towards the maintenance of his wife and children living in his house. Food expenses are not given.

45. Such Sambandhams are customary.

Questions 39, 40, 41 and 44 are not separately answered as the answers elsewhere given contain the information therein sought.

(Signed.) VALLAPUZHA MANAKKAL ASHTA MÛRTHI NAMBÛDRIPÂD.

(True translation as near as may be.)

H. M. WINTERBOTHAM,

Collector on Special duty.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. R. KOLATHUR UKKANDUNNI MUPPIL WARIYAR AVARGAL,

LAND LORD.

1. Yes it is quite common.

2. No, it is not allowed. When the man belongs to a higher and the woman to a lower division, the Sambandham is termed *Anulômam*, and *Prathilômam* when the opposite takes place. Of these two forms, *Prathilômam* involves loss of caste.

3. As above. The highest division amongst Nayars is Kiriya, and men belonging to that division are permitted to have Sambandham with all the lower divisions. As regards Sûdra, Chârnanthi, Pallichân, Anthûr, Vattekkât and Athikurishi, they follow certain hereditary professions, and in consequence occupy an inferior position in the social scale. Each division speaks of its profession as superior to the rest, and therefore intermarriages between such divisions are not customary. The Sûdra division has to serve the Brahman. It is its appointed occupation and peculiar caste service. Deriving their superiority from this fact, men of this division form Sambandham with the five lower divisions, while the lower divisions are not permitted to have Sambandham with the Sûdras and the Kiriya division.

4. Transgression is of two kinds, *drushtam* (seen) and *adrushtam* (unseen) (Expiable and non-expiable?). Mere violation of the common practice is *drushtam* transgression. When the violation becomes sinful through persistence, it is non-expiable transgression. Non-expiable transgression is altogether to be put away, while expiable transgression can be satisfied by an atonement. Sexual intercourse within the Nayar Caste, is not *adrushta* transgression: hence it can be atoned for by penalty. The penalty may be purificatory, either of the mind, or of the body, and designed to convince the transgressors of their guilt. This will suffice.

5. Is answered by the 4th Answer.

6. Kôrapuzha is the boundary of North and South Malabar, as regards caste observances.

7. North Malabar Nayars have Sambandham in South Malabar. South Malabar Nayars are not known to have formed Sambandham in North Malabar.

8. Yes; he is permitted. North Malabar Nayars do not allow South Malabar Nayars to form Sambandham in North Malabar, merely because they are not fully acquainted with the Nayar castes in the South and their tribal distinctions.

9. There is no objection to doing so.

10. There is a tradition that when the Mapillas first came to Malabar, they waited upon the Zamorin, and requested that they might be given eight dwelling houses, and women to be taken as their wives. The Zamorin complied with their request by permitting them to dwell in any eight houses they liked, and to marry the

women of these households. When the Kôlathiri Rajah of Chirakkal heard of this unwarranted concession, he prohibited the females of his territory from crossing Kôrapuzha on pain of losing caste. The restriction on the movements of the females of North Malabar may therefore be said to have been imposed from that date. As far as as my knowledge of South Malabar Mapillas goes, I may mention that they trace their origin to one of these eight houses. And documents or grants given to them contain a reference to such origin.

11- *Tâli-kettu Kalyânam* is the investiture of the matrimonial thread about the neck of a girl by a man at an auspicious moment. As this is a joyful event, relatives and friends are invited for the occasion, and are feasted. Kettle-drums and music form a most conspicuous part of the programme. The bridegroom, remains with the bride for three days, and on the fourth day, after they have bathed and partaken of food, he cuts into two the garment of the bride.

12. The *Tâli* should be tied by a man. He is spoken of as the *Manâlan* (bridegroom) till the cloth is cut and given on the fourth day. The close of the *Kalyânam* terminates the *Sambandham* (connexion) between the bride and bridegroom.

13. When the *Manâlan* is from one's own caste, each girl must have a separate *Manâlan*. Amongst some *Nayars*, *Kshatriyas*, such as *Kols* and *Tirumulpâds*, perform the *tali-tying* ceremony, and in such cases more than one girl may have her *Tâli* tied by one *Manâlan*.

On the ground of the privilege (of polygamy) that the descendants of *Kshatriyas*, who are of royal blood, inherit, this practice is only followed where the brides belong to certain *Nayar* divisions possessing some *Sthânam* (entitling them to a *Kshatriya* husband.)

14. With the tying of the *Tâli*, the virginity of the girl ceases, and she attains womanhood, and he who introduces her to that state, is first entitled to cohabit with her. He parts with that right on the fourth day by the ceremony of cutting the piece of cloth for her. If he declines to cut the cloth no one can cohabit with the girl except with his consent.

15. Is answered by the answer to the 14th Question.

16. Yes—there are such instances.

17. A form of pollution is observed by the girl at the death of the man who tied the *Tâli*. It is not invariably observed every where. The reason of observing the pollution is to carry out the idea, which the girl has, that the man who tied the *Tâli* is her husband. If she omits the observance, she is not thereby defiled. It is observed by all divisions in these parts. When the man who tied the *Tâli* happens to belong to another section, pollution is not observed.

18. I am not aware of any such custom.

19. *Tâli-kettu* must precede the attainment of puberty. If owing to any particular cause the ceremony is not performed before the attainment of puberty, an atonement is made, and *Tali-kettu* is performed somehow or other. But this is only in extreme cases of an unavoidable nature. It is not merely a local usage. The period of *Kalyânam* is the same amongst all classes. *Tâli-kettu* must be done within the period of maidenhood, whenever that may be. Maidenhood passes away with the attainment of puberty after menstruation. *Tali-kettu* is forbidden, and it is only in extreme cases that it is permitted with penalties. This is prescribed by the

marriage ordinances. Cohabitation with a *Kanyagâ* (immature girl), and performance of Kalyânam after the attainment of puberty, are equally forbidden amongst all classes. Malayâla Brahmans alone are exempted from this law of prohibition with regard to marriages after the attainment of puberty. Sankarâchâriar made the exemption for them basing it on some Smirtis, when it was found that, under the law permitting only the eldest son to marry, it would not be practicable to perform marriages of daughters during virginity.

20. No formality is necessary. As however it is a joyful occasion, relations and friends are invited and feasted, and other marks of rejoicings are usual.

21. The formation of Sambandham does not necessitate the performance of any ceremony at all, and it makes no difference whether the Sambandham is sought by one of the same, or of a higher caste.

22. I do not know what the practice is in North Malabar. It is all the same throughout South Malabar.

23. A woman is not forbidden from consorting with more than one man. It is not, however, customary as it is viewed as unbecoming.

24. For the Marumakkathâyam people, who reckon their descent through the female line, there is no objection to any cohabitation which does not contaminate the female element. Hence the absence of such prohibition.

25. Yes. She can.

26. No formalities need be observed. The party that seeks separation has merely to say that the alliance is at an end.

27. Yes. He can.

28. There is no objection to his doing so.

29. In her own Tarawâd. At pleasure she can live with her Sambandhakâran in his house, and she often does so.

30. I do not know what the practice is in North Malabar.

31. The woman's Tarawâd has to maintain her and her children. At the same time, it is only proper that the husband should meet her expenses, and he does actually do so. He cannot, however, be compelled to do it.

32. The man and woman remain as husband and wife during the continuance of mutual love, but they may divorce each other, when enmity arises between them.

33. He may do just as he pleases. There is no objection.

34. If the Anandaravans work for the Tarawâd, agreeably to the wishes and directions of the Karanavan, he (the Kâranavan) defrays all their expenses. In some Tarawâds, Anandaravans do manage Tarawâd lands on Pâttam, but the tenure is subject to conditions such as usually circumscribe leases to other tenants; and the profits of cultivation, if carried on with their self-acquisition, can be appropriated by them.

35. The Anandaravans usually work for the benefit of the Tarawâd. Some however, pursue their special avocations, such as farming, Government service &c, and make private acquisitions thereby, but this is not against the interest of the Tarawâd.

36. The self-acquisitions of Anandaravans are used in the maintenance of wife and children; the surplus remains under their control during their life time, and is, after their death absorbed in the Tarawâd property. But when the Tarawâd property is found insufficient for meeting the Tarawâd expenses, the acquisitions of the Anandaravans are made over to the Tarawad from time to time.

37. There is no such local custom in South Malabar, and I cannot say precisely what it is in North Malabar.

38. Legislation in respect of marriage is not only unnecessary, but objectionable. If Makkathayam is to exist side by side with Marumakkathâyam, in the same Tarawâd, it will be a powerful cause of dividing the house against itself. When a man marries (under the Act), he will be viewed with suspicion by other members of the Tarawad as one determined to give all his acquisitions to his wife and children. They thus become opposed to him. In process of time, the man becomes the Kâranavan of the Tarawâd and what injury the dissension between him and other members, will do to the Tarawad, cannot be described. The gradual increase of such members marrying (legally), would deprive the Tarawâd of their support for its well being, and thus tend to its dissolution.

It is also objectionable on religious grounds. Succession is of two kinds *viz.*, (1) from the seed, or father, and (2) from the soil (which receives the seed), or mother. Of these, Makkathâyam is succession through the male, and Marumakkathâyam, through the female. The obsequies of Marumakkathâyam people are performed by those who come in the female line, and for those belonging to divisions superior to the Nayar caste, such obsequies are accompanied by Mantrams. They do not perform the funeral rites of their fathers. Makkathâyam requires the performance of father's funeral rites (by their children). They must go through such rites, with or without Mantrams. Without Mantrams, the rites lose their efficacy, and are as if none were performed at all. Mantrams are extracts from the Vedas, the production of holy Rishis, with reference to the requirements of each caste. Hence they cannot be made now. At the anniversary of the deceased, where Srâddha is performed with Mantrams, the manes should be invited to the spot, and the rites performed. The Mantram-bound souls would never attend, unless invited by the recitation of such Mantrams, and rites performed without their presence are inefficacious. At marriages, it is the *Mantram* and *Hômam* that bring about the relationship between husband and wife. Even if such relationship is brought about, it is the right of performing funeral rites that gives to the wife and children, the right to inherit the property of the husband and father respectively. When such right of participating in the performance of obsequies does not exist, inheritance of property does not exist either. Relationship through the female has greater weight than that, through the male. If any man beget a son on a woman, that son cannot belong to the man. If one sow seed in another's land, the sower cannot say that the crop raised is from *his* seed, and therefore his. The crop would belong to the land-owner. According to this Shastra, to those higher classes who form Sambandham with recitation of Mantrams, marriage (under the Act) would be impracticable, and hence there is difficulty on religious grounds, both in the way of performing a father's obsequies, and in the way of marriage.

39. As registration is for securing evidence of marriage, it seems to me that the best way to do it would be, to treat the ordinary Sambandham as marriage.

Marriage is a rite which should be solemnized in the midst of one's kindred, and people of the same caste, but not amidst people of another sect. If the Registrar happens to be a Mussulman or Christian, or lower-class Hindu, the completion of the rite before them, would be objectionable on religious grounds, and would be disagreeable to the man and woman to be married. Moreover, there is nothing to be gained by having the marriage performed before the Registrar.

40. Yes, they differ. The differences have been pointed out in the answer to the respective questions. A man and woman cannot marry, unless both belong to the same caste. If the provision, that the Act will apply where one of them is Marumakkathâyam be upheld, it would follow that a Malayâlam Brahman could marry a Nayar woman; that a Vattekkât Nayar could marry a woman of the Kiriya division &c. This would subvert the present practice, and give the son of a Brahman by a Nayar woman the right of performing the obsequies of a Brahman which is against custom, or the ordinary rules of caste, besides being an inexpiable transgression. Hence it is altogether objectionable.

(i) "During such married life &c" requires amendment so as to admit of marriage again at any time after the *first* marriage. If this is not made clear, it may happen that either the husband or wife may be the victim of some incurable disease, or lunacy; or that the continuance of the relationship as man and wife is mutually distasteful, and any legal inviolability in the way of their separation, would lead to life long misery. Such cases should be provided for.

(2) As puberty is generally attained before completing the 14th year of age provision should be made for the solemnization of marriage in the year just preceding that of the possible attainment of puberty.

1st proviso: This is objectionable. The answer to this is given in 40.

2nd proviso: I am not quite clear as to what this means. I cannot therefore give any answer.

41. As I am of opinion that legislation in the matter is unnecessary, I have no opinion to offer regarding what may be omitted from, or added to, this Bill.

42 Disagreement between the husband and wife is all that is necessary for separation.

43. This is answered by the answer to the 31st question.

44. It may be ascertained from the answers to the various questions.

(a) The woman and her children are members of her Tarawâd and not of the husband's. They have a right to ask for their maintenance from the Tarawâd. Their guardian is therefore the Kâranavan of that Tarawâd.

(d) This is answered by the answer to 44. (e).

(e) As it must be consistent with the Marumakkathâyam law of inheritance testamentary disposition of property cannot be permitted. A portion for the maintenance of the wife and children should alone be given from the acquisitions of the deceased husband, and the rest should go to the Tarawâd, for the reason that even where there is self-acquired property, they can claim maintenance from the Tarawâd. Even were the property self-acquired, it would, after the death of the person acquiring it, only go legally to the Tarawâd and the deceased should have no power to change the course of its natural devolution.

(f) Is answered by (e).

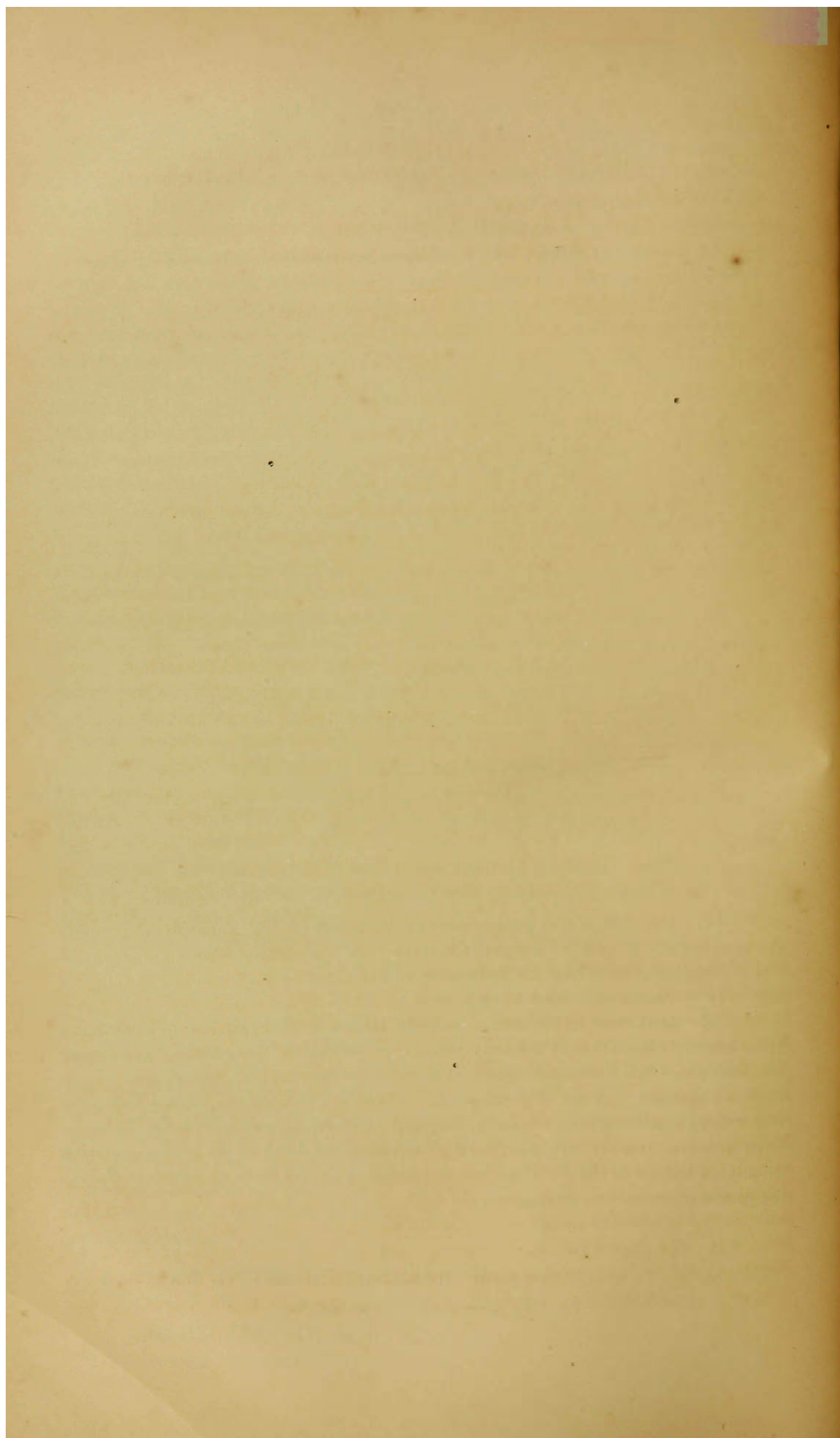
45. Yes, there is.

(Signed) UKKANDUNNI MUPPIL WARIYAR

True translation as near as may be.

H. M. WINTERBOTHAM,

Collector and Commissioner.



MEMORANDUM

BY

M. M. RY. C. TIRUVENKATACHARIAR B.A. B.L.

Dewan of the Native Cochin State.

TRIPOONITURAH,
10th June, 1891.

My dear Sir,

In reply to your letter of the 11th April, I enclose a Memo. containing my answers to the questions put by you as regards the Malabar Marriage Bill. These are my individual opinions as a private gentleman. I know of no native work or official report containing information regarding marriage customs or sexual relationship in the Marumakkatayam castes.

I remain,
Sir,
Yours faithfully,

(Signed) C. TIRUVENKATACHARIAR.

To

H. M. WINTERBOTHAM, ESQUIRE, C. S.,
Collector of Malabar, on Special Duty.

Question I.—Whether the introduction of the Law into Malabar will benefit or prejudicially affect the people of the Cochin State. If so, how?

1. To this question my answer is that most of its provisions will prejudicially affect Cochinites. I shall state my reasons in full.

The bill chiefly tries to engraft the Makkatayam system on the Marumakkatayam system, if not to substitute the former for the latter. The bill is no doubt said to be a permissive one, and it is alleged that those who do not like to follow it need not do so. But if once the bill is passed it will become almost compulsory. Some of the English-educated Malayalee gentlemen, who hold respectable posts under Government, or who occupy other respectable positions, will register their marriages, and then non-English educated gentlemen too will follow them, though they do not know whether the measure is good or bad. They will consider that it must be good as it is accepted by those whom they regard as their superiors in every respect. Malayali ladies will begin to consider that marriage registration is the only proper thing to be done, and they will not accept husbands who are not willing so to register and proclaim to the world that they are married. Thus, in the course of a few (say ten) years, almost all Malabar marriages will become registered, or, in other words, the people will become Makkatayeys. Is such a substitution of Makkatayam for Marumakkatayam desirable, or advantageous, has to be considered. This is a question difficult to be solved. Each system has its advantages and disadvantages. Unless

the superiority of Makkatayam over Marumakkatayam is established beyond all doubt, it is not, in my opinion, expedient or proper to substitute the former for the latter. I do not think Makkathayam is superior to the other. On the contrary I am inclined to give the superiority to Marumakkathayam.

Under every system of Law which I know of, inheritance chiefly follows blood relationship. The nearest blood relation is the first heir to the property of a person. Makkatayees consider a son to be the nearest blood relation, while Marumakkathayees claim this relationship for the nephew. A man cannot be always sure of his father, and hence a son may at times have no blood of his putative father in his veins. But a nephew will never be an alien in blood to his maternal uncle. The brother and sister being born from the same womb, the issue of the sister is connected by blood with the brother *i. e.* his maternal uncle. Thus the first heir under Marumakkathayam will always satisfy the law by being a blood relation, while the first heir under Makkathayam law may sometimes fail to satisfy it. Hence if blood relationship is to be taken into consideration as regards inheritance, Marumakkathayam is more appropriate than Makkathayam.

It is argued that Marumakkathayam proceeds against nature and compels a man to give his property to one for whom he can have little or no natural affection. "Nature" and "natural" are relative terms. "Natural affection" is the result more of habit and associations than of any thing inherent in man. Every system of law has its own peculiarity which may appear absurd or unjust to one following another system of law. Makkathayam Hindu Law gives all the property to sons in preference to daughters. When sons, grandsons or great-grandsons exist, the daughters get nothing. It may be asked whether this is just. The daughter is as much the issue of the father as the son. Then why not give the daughter too a share of the father's property? Again, Mahomedan Law gives the daughter half the share of a son. Is this again just? Why not give her a share equal to that of the son? Again where the law of primogeniture prevails, all but the eldest son get nothing. Is this not very partial? It would not be prudent to suggest a change of the Hindu, Mahomedan or other laws as they seem to be thus partial. The framers of the Marumakkathayam Law made the nephew the first heir, as he is the nearest blood relation. That he is such relation is doubtless true. So the Law must be allowed to remain and it must not be objected to as partial or unnatural.

The one principal advantage of Marumakkathayam Law is the continuity of wealth in Tarawads. Malabar families continue wealthy for a very long time, at least longer than families following Makkathayam, as the prohibition of partition permits them to keep their property intact. If the Makkathayam is introduced, it will bring in its train the mischievous system of partition, and impoverish Malabar as it has done the eastern coast. The bill under consideration will, if passed, introduce Makkatayam, at least as regards ladies whose marriages are registered. If there are 4 ladies in a Tarawad and each of them is married by a husband who registers the marriage, and they inherit properties from their husbands, they will each form a family of their own consisting of each lady and her issue. Owning such separate property, they cannot live in commensality, and they will have to divide the Tarawad property by mutual consent. Thus the Tarawad system will not only be annihilated, but the newly formed families will not have as much property as the old Tarawads, and property will be frittered away.

I may also refer to what may be called the religious objection to the bill. It proposes to give all the separate and self-acquired property of the father to the wife and children. These latter may, in some cases, be of a lower caste than that of the father, and they cannot then perform the funerals of the father. According to the religious practices of the Malayali, the nephew performs the funerals of his maternal uncle and even undergoes dhiksha (mourning) for a year. If the gentleman who dies leaves only separate or self-acquired property, the nephew will have to meet the expense, and undergo the trouble, of the funerals, without inheriting any portion of the property. He cannot refrain from performing them, for, unless he does so, he will not become purified. Every religious Malayali will like that his nephew should perform his funerals properly so that his soul may obtain salvation. Can we expect a nephew to perform his uncle's funerals for the sake of religious merit alone? Hence if the bill is to be passed at all, it should be considered whether it would not be prudent to lay down that a portion of the self-acquisition or separate property will descend to the Tarawad and cannot be willed away. In this connection it will not be amiss if I mention an observation made to me by an intelligent Nayar graduate friend of mine. He said that if the bill were passed there would be no one to educate Malayali male children. The Tarawad Karanavan would not then educate them, because he knows that their self-acquisitions cannot be claimed by the Tarawad. An Anandaravan can sue his Tarawad Karnavan for maintenance, but no Anandaravan, however wealthy his Tarawad, can compel the Karnavan to educate him; much less to give him English education. The father would not also educate his son, as he knows that any property acquired by him (the son) will go to his (the son's) wife and children and not to his (the father's) wife and children. There is a good deal of force in these remarks as Marumakkatayee fathers are not, and cannot be, in the same position as Makkathayee fathers. The latter consider a son necessary to relieve them from the miseries of Put, and in their eyes a son's son or a son's grandson is equally efficacious with the son for performing oblations to their souls and manes. Hence a Makkatayee father has great interest in educating his son, but not so the Marumakkatayee father. In his case there is no religious tie between him and his son, who in many cases may be of a different and lower caste. His son's son is a perfect stranger to him, and may belong to a third and still lower caste. The religious consideration which operates strongly in the mind of the Makkatayee father is absent from the mind of the Marumakkatayee father, and therefore the result prophesied by my friend may come to pass, and the Malayali boy may find himself abandoned to his fate by his Karnavans and by his father.

One advantage of the Makkatayam system is said to be that it encourages individual industry. Each member of a Makkatayam family can get his share separated from the common stock and he becomes himself the head of a family with his wife and children depending upon him for support. He is therefore obliged to be industrious, while the Marumakkatayee who is sure of his board and lodging from his Tarawad is said to have no incentive to work. These may be the natural results to be expected from the two systems of the Law, but it is found in practice that many Marumakkatayees are as industrious as, if not more industrious than, their brethren of the Eastern Coast. The impoverishing effect of the Makkatayam system which I have already commented on, far outweighs the advantages above referred to.

According to the marriage system prevailing among the Nambudiri or Malabar Brahmans, only the eldest son marries and the junior members consort with ladies

of lower castes. These Nambudiri gentlemen will not relish the idea of registering marriages. If they do not agree to register the marriages, no Nayar lady will accept them for husbands. Are they all to remain bachelors? When a change is sought to be introduced into the law of a large country we must see that no portion of the population of that country is injuriously affected by such change. The proposed change will seriously affect the Brahman population—a not insignificant factor. Can such a change be allowed? I find from long experience that the Nayars are, as a rule, more intelligent than Sudras of the Eastern Coast. Can this not be the result of the permission given by Parasurama for younger sons of Nambudiris to consort with Nayar ladies? If so, will it not be a suicidal policy on the part of the Nayars to urge for this Bill?

As regards the provisions for divorce contained in the Bill, I must say that the Hindu mind will revolt at the idea of a resort to a public tribunal for settling scandalous family differences. The present system of divorce on mutual consent (carrying, as it does, with it social stigma on the wrong-doer) will be more relished by the Malayalis than one which compels them to make shameful, and humiliating disclosures before public Courts.

The prevalence of two contradictory and conflicting systems of inheritance in one and the same family (as will become the case if the proposed bill is passed) will cause a good deal of confusion. Properties following the Makkatayam law of inheritance and those following the Marumakkatayam may and will devolve on one and the same person, or persons, and may get mixed up together, thus becoming a fruitful source of dispute and of almost endless litigation. If the bill is to be passed at all, the provisions regarding the succession to father's property by the wife, sons, and daughters, will have to be given more in detail. Whether such properties will become common to the wife and children; whether they can effect a partition of it among themselves; whether or not the property will descend by survivorship if they remain undivided, to which family the property will revert if all of them die intestate and without issue (whether to the family of the husband whose property it originally was, or to the family of the wife who inherited it). These and other matters will have to be carefully detailed before the bill is made law. The prevalence of two different systems one in this State and one in Malabar, will seriously and injuriously affect the people of this State, at least those who have connections in Malabar.

Question II.—Have you observed amongst the educated, or any fraction of the Marumakkathayam castes symptoms of a revolt against the custom which prevents a man from bequeathing his self-acquisitions to his wife and children, which gives his wife and children no claim to maintenance from his separate property; and which allows any one to commit adultery with his wife with impunity?

Answer II.—I beg first to take objection to the sweeping assertion contained in the last sentence of this question. As far as I know, there is no custom among Marumakkathayam Hindus, which allows any one to commit adultery with a man's wife with impunity. Social punishment follows the adulterer and adulteress unless the husband condones the offence. The social stigma is very great, and ladies discarded for having committed adultery find it difficult to secure other husbands. It is natural for man to resent against a law which prevents him from bequeathing his self-acquisition as he pleases. Makkathayam Hindus were, till recently, not satisfied as they did not get this power. So also are many of the English educated gentlemen of Mala-

bar, not because they are prevented from bequeathing to their wives and children, but because their liberty in the disposal of their own gains is affected. But I cannot say whether they are for giving the wife and children a claim for maintenance from the husband. Testamentary power as regards a fixed portion of the separate or self-acquired property can no doubt be given to Marumakkathayam Hindus, and I think it ought to be given. This alone will for the most part obviate the necessity of passing a law to legalize marriages. I am not for giving them power to will away the whole of their self-acquisitions—for, as I have pointed out above, their Tarawad is under a religious binding to perform their funerals.

Question III.—Would a way of escape from these customs be welcome or not?

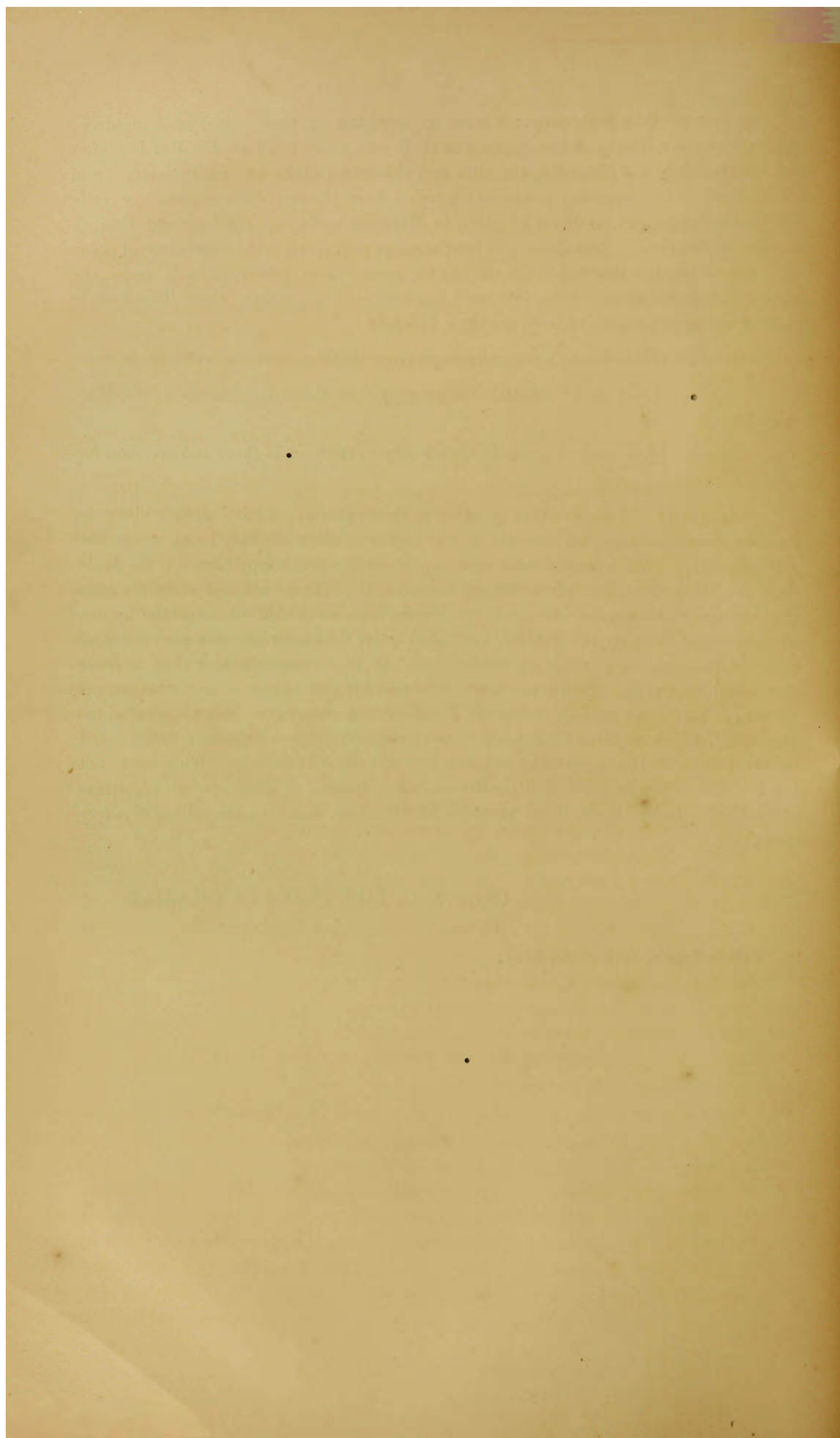
Answer III.—I doubt whether the country will welcome a change in the Marriage Law.

Question IV.—And on grounds of morality is there or is there not occasion for reform?

Answer IV.—I answer this question in the negative. I have already observed that the Marumakkathayam custom is not so bad as to allow adultery being committed with impunity. We generally meet with happy couples and happy homes. No doubt there are black sheep and adulteries are committed, but they are not more common than among Makkatayees, nor are they so numerous as would be expected by one who is carried away by the general, but false, belief that marriage ties are very loose here. Adulteries are at times condoned, but not to a greater extent than in other castes and countries. The people seem to be content and happy under the present system, and I do not see any reason for a change. A reform on the lines of the proposed Bill, which requires a marriage to be registered before a registrar, will not, I believe, meet with the approval of members of respectable Tarawads. They would not like the idea of young ladies and gentlemen being taken, or going, before registrars and declaring before them, in the presence of witnesses, that they are willing to marry each other.

(Signed) C. TIRUVENKATA CHARIAR,

Tripuniturah, 10th June, 1891.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

MEMORANDUM.

BY

M. R. RY. A. SANKARIAH AVARGAL, B.A., P. F. H. S.*

DEWAN PEISHKAR,

COCHIN.

1. Take Lakshmi to be a member of the Kilakkêpad Tarawâd, and Krishnan to be a member of the Vaddakkêpad Tarawâd.

The present religio-social law is that Lakshmi and her children have religion, communion, domicile and rights of property in Kilakkêpad Tarawâd only, and therefore they are subject to the care and control of the elders of that Tarawâd. So also, whatever may be the personal wishes of Krishnan, his Vadakkêpad can only regard him as a member and heir of that Tarawâd, bound to serve secularly and religiously for its welfare. The sexual attachment between Lakshmi and Krishnan is called "Sambandham" as distinguished from religious marriage, or conjugal rights. Often the parties to the Sambandham are so widely different in caste that the man must bathe after contact with the woman, before he can pray or take his food. The utmost love and friendship may exist, but religious and legal ties are out of place.

2. The follies of blind love and selfish speculation are many and various. Often Tarawâd men and women, abjuring their Tarawâd rights and obligations, become converts to Christianity, or Mohammadanism, or Brahmoism, and are married as these religions prescribe. And this straight-forward course is alike welcome to the Hindu community as well as to the missionary creeds. The couple marrying under a new Makkathâyam law for Hindus, must stand out at any rate as a new caste without relapsing into the Marumakkathâyam Tarawâd. There is a class of High Sudras, or Umbalavâsees, called Nambiârs, who give away some of their girls for ever as Makkathâyees and retain some as Marumakkathâyees. The Nayars and others can do so without a Government Law, which after all makes them neither Makkathâyee nor Marumakkathâyee, but meddles with voluntary attachments and separations in a community hitherto innocent of scandalous litigations, connected with adultery, divorce and bigamy.

3. The Malabar Marriage Law proposes to preserve the status of Lakshmi and Krishnan in their separate Tarawâds, and yet to create legal rights between them and between Lakshmi's children of Kilakkêpad Tarawâd, and Krishnan of Vadakkêpad Tarawâd. It is simply a law to enable Krishnan to play false to the Tarawâd name he bears, and to enable Lakshmi to swindle him of his acquisitions, for there is no communion in religion and domicile between them aimed at by, or possible under, the new bill. This communion on earth affects the communion with ancestral Pitris according to the Hindu religion and belief. Will the new law "gather" Lakshmi and Krishnan to the abode of their uncles, mothers and sisters?

* President Founder of the Hindu Sabha.

or Lakshmi and Krishnan to any Pati-lokam? Worldly agnostic legislation should not blindly override the temporal interests and religious feelings of the people. What is Lakshmi or her Tarawâd to do if Krishnan neglects to visit her after registering the marriage?

4. Lakshmi has already had her marriage sacrament in her Tarawâd without reference to Krishnan, and her acceptance of Krishnan is primarily to beget heirs to her or her Tarawâd, and not to Krishnan or Krishnan's Tarawâd. And for that primary object, as well as for the secondary object of better treatment and greater advantages, she has accepted Krishnan; and so she may accept Raman of Thekkêpad, in the place of or in addition to Krishnan. It is the feeling of monopoly, or the belief in the religious good of joint co-operation, which regards conduct against the monopoly or the religious belief as *immoral*. There is no such monopoly or religious belief in the present constitution of Malabar Tarawâds. Should the British Indian Government create new feelings, and defeat the primary and secondary aims of Lakshmi, and make Krishnan obnoxious to his own Tarawâd and jealous towards Lakshmi, Krishnan and Lakshmi will not be half so solicitous to please each other after the registered contract as before it.

5. There is no such thing as Malabar law; for, the Marumakkathâyam law called by that name largely prevails in Cochin and Travancore, and in all India. The Dêva Dâsees of all the temples in all India observe the same Hindu law of female (or Kshêtra) Pradhânam.* The ancient and just principle of Hindu scripture and law is that fidelity to the bed is the correlative of fidelity to religious service, where the wife is merged in her husband for such service, and that otherwise it is a matter of option and self interest. The greatest practical fidelity to the bed is found indeed in some women of the Dêva Dâsi or Marumakkathâyam families, and the greatest derelictions in some women of the highest Brahmin ranks. But secular laws to enforce fidelity among the former by instituting a non sacramental marriage, or among the latter by a fresh sacrament, are not worth the serious consideration of Government. Marital rites, bonds, and rights belong properly to twice-born classes for purely religious considerations, to perpetuate those classes and their duties. In the other castes of the Hindu community the healthiest, wisest, and most accomplished men and women belong to the Marumakkathâyam, and the hybrid sections, rather than to the Makkathâyam sections.

6. Do Christians approve of valid, binding marriages under any permissive law without religious services and priestly blessings? Do Budhists, or Brahmos have them? Why are the Marumakkathâyam Hindus considered to be fit subjects for irreligious experiments disparaging to Hinduism and the Hindus? Surely English rule is not glorified by supporting a number of Atheists bent upon subverting their religious and family systems. Unless a respectable number of respectable elders of social, religious and family status make a demand, the Legislature ought not to move in any socio-religious matter of this kind. Otherwise those who are discontented with their caste and creed must give them up as the Brahmos have done and form their own. A marriage tie without priests, gods and Pitris to bless it, and without merger in pollution domicile and religious ceremonies, is not worthy of Hindus of even the Chermar and Pariah castes. An irreligious law for lust-blind men and purse fond women requires neither Commission nor evidence. There is no Hell of "Put" from which Krishnan is to be saved by Lakshmi's son; and no pollutions, ceremonies, and dharmams for the benefit of his soul which Lakshmi and her son of Kilakkêpad are bound to do in preference to his relatives

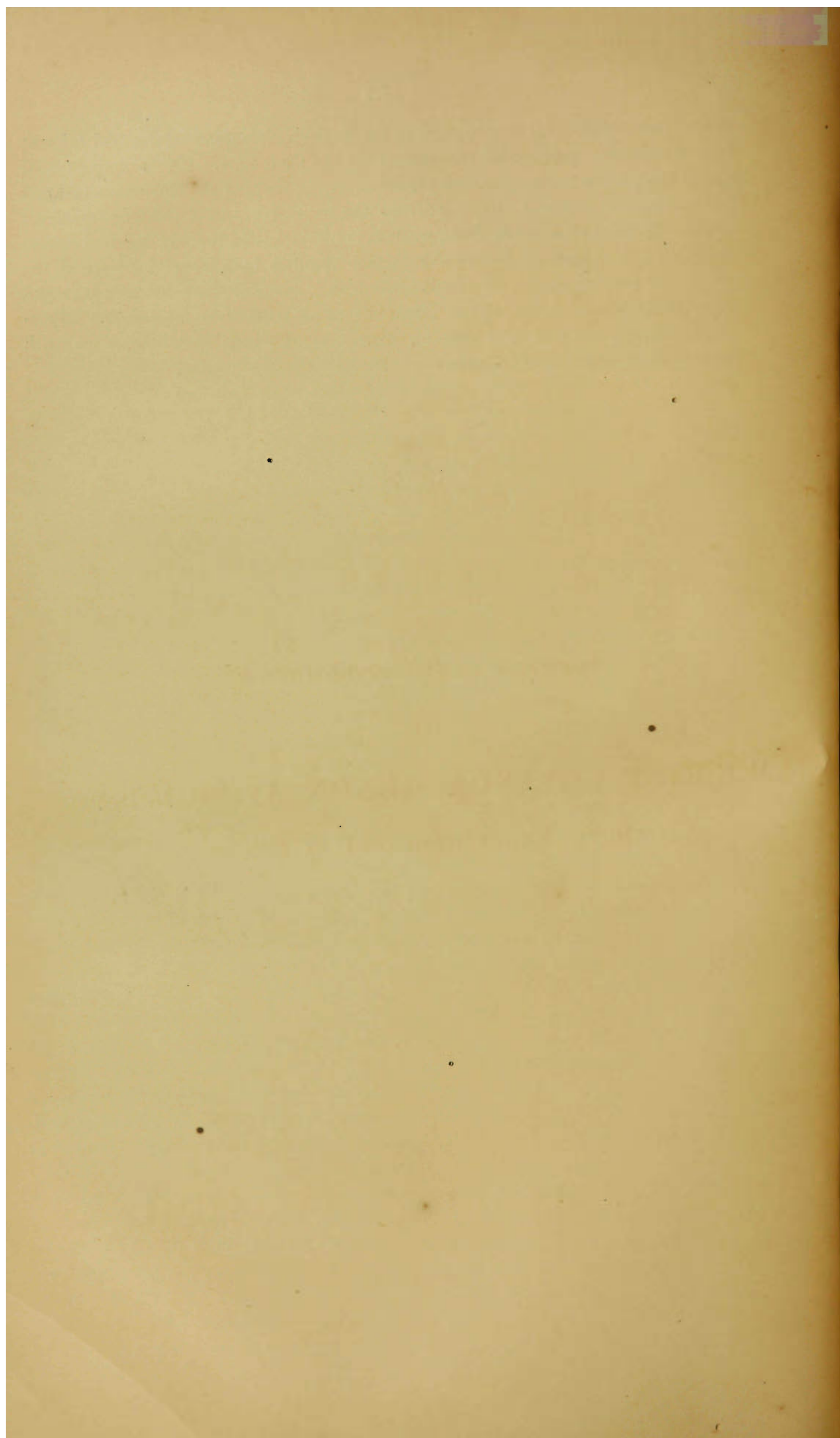
* Kshêtra—Pradhânam=Superiority of the ground (over the seed sown in it.)

of the Vadakêpad. All this belongs to the Ecclesiastical department, and reforms from within must precede all recognition by the Civil Law. If it is enough that one of the parties to the proposed pseudo-marriage tie is of the Marumakkathâyam family, then the law will simply corrupt the impulsive and fool-hardy members of existing Makkathâyam families, while it is disastrous as already pointed out to the unity and welfare of Marumakkathâyam families both here and beyond the grave. If there is to be a Permissive Bill at all in favor of Makkathâyam, it should apply to all females including the Dêvadâsis of all India, who now follow Marumakkathâyam, and who will give up their present status and obligations with solemn Makkathâyam, ceremonies as determined by their priests.

A. SANKARIAH, B.A., P.F.H.S.

Dewan Peishkar,

Cochin.



LETTER

AND

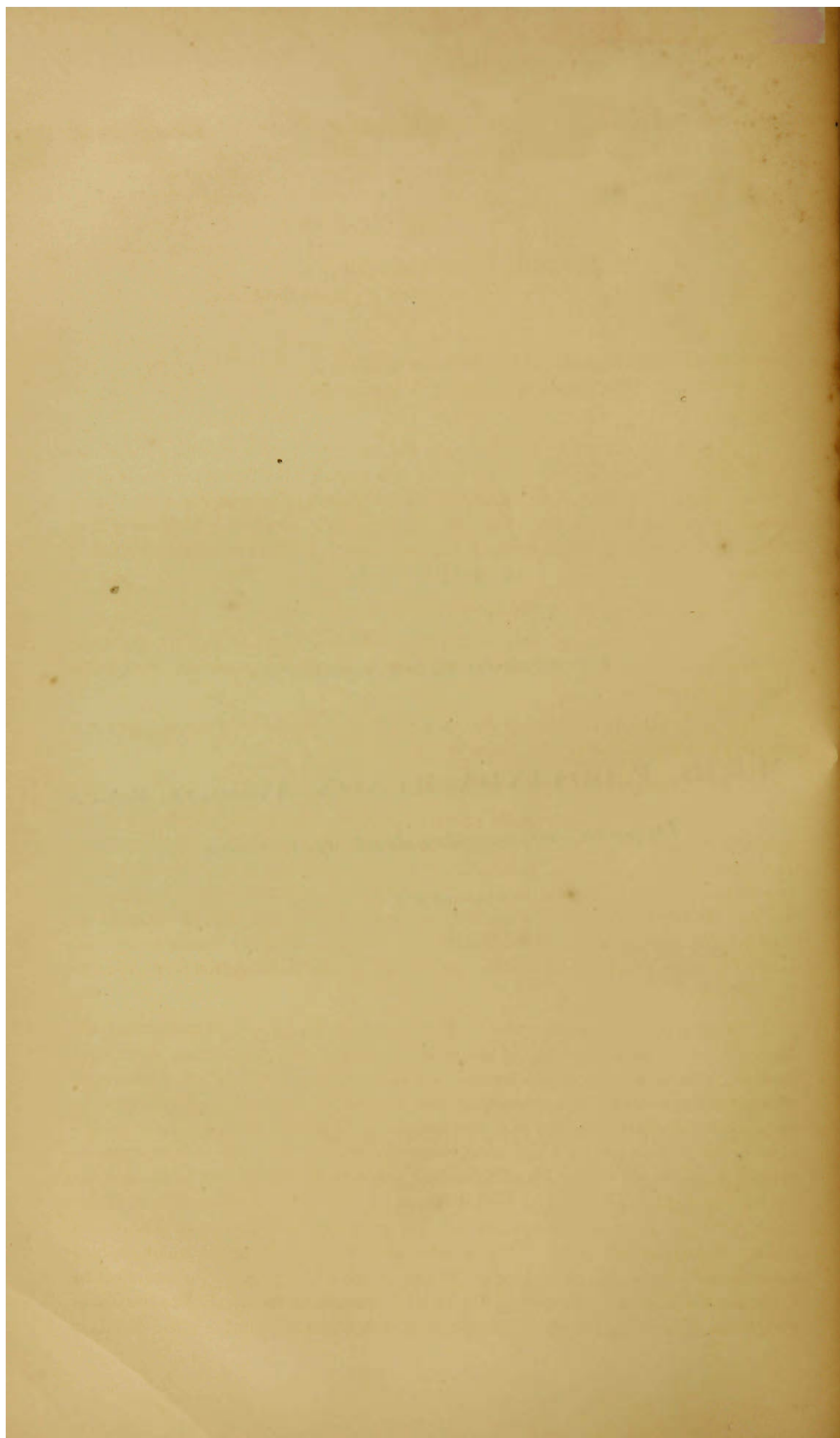
Answers to Interrogatories

BY

M.R.Ry. P. GOVINDA MENON AVARGAL, B.A.,

Deputy Superintendent of Census,

CALICUT.



CALICUT,
15th May 1891.

FROM

M. R. Ry.

P. GOVINDA MENON AVARGAL, B.A.

Dy. Superintendent of Census Operations,

CALICUT.

TO

H. M. WINTERBOTHAM, ESQUIRE, C.S.,

Collector of Malabar, on Special duty.

Sir,

I have the honour to acknowledge the receipt of your circular, dated 4th April, 1891, inviting opinions on certain points touching the recent proposals of the Honorable C. Sankaran Nair in regard to the system of marriage and inheritance obtaining among Hindus following the Marumakkatâyam Law. I am sorry that, owing to pressure of office work, I was not able to submit the following remarks earlier.

2. The questions on which my opinion is asked are :—

(1) Is it desirable to pass a Permissive Law enabling Hindus under the Marumakkatâyam, or Aliyasantânânam, Law to contract a marriage such as the Law will recognise.

(2) Is it desirable that the said Hindus should be given the power of disposing of their self-acquired property by will.

3. I shall answer the last question first.

It is but just and fair that all persons should, so far as the conditions of the community in which they live permit, be allowed to do as they like with the fruits of their own labour. The legal recognition of separate property is in all civilised societies an incentive to individual exertions, and does thereby benefit the community. Further the right of individual ownership induces thrift, which is so essential to the well-being and prosperity of a community. It is therefore highly desirable and expedient to allow every person to hold, and dispose of, his self-acquired property as he thinks best.

The idea is not a new one to Hindus governed by the Marumakkatâyam Law. "It is unquestionably the law of Malabar that self-acquisitions made by a member, male or female, of a Tarawad, are the separate property of the acquirer who is fully entitled to hold, encumber and dispose of them *during his lifetime* by sale, gift or marriage." All that is now sought is to extend the application of the existing law to property of which a man may die seized. The law as it now stands permits a man to give away his self-acquired property to whomsower he likes, without leaving a pie to be inherited by his Tarawad. It is the mere accident of his death prior to any such disposition of his property that gives the Tarawad a right to what is so left by him. The enactment of any law therefore which enables a man to have his wishes, in regard to the disposition of his property, given effect to in the same manner after as during, his lifetime, cannot be an injustice to the Tarawad, or an infringement of the existing rights of any person. On the other hand, it

is but just and proper that the law should permit a man to make his own arrangements for the devolution after his demise of property over which he has absolute control during life, but which either through motives of prudence and self-preservation, or for want of sufficient forethought, he does not part with so long as he is alive. It will also be a great convenience and satisfaction to the owner if he has not to divest himself during life of all his earnings, in order to provide for those dear and near to his heart.

4. It seems clear from what is stated above that no vested rights will be disturbed by the proposed change. Under the existing Law the Tarawad can claim only such portion, if any, of the self acquisitions of a member as has not been alienated by him *inter vivos*. The proposed legislation would limit the claim to such portion, if any, of which he dies intestate. In both cases the extent of the claims of the Tarawad is determined by chance, and the Tarawad cannot reasonably complain of having been deprived by legislation of what it was sure to get otherwise.

5. It may be said that the grant of testamentary power to the Hindus under the Marumakkatâyam Law is a death-blow to the Tarawads governed by that Law. Such Tarawads will in future fail to receive any additions to their property, as the working members will will away their earnings to persons outside the Tarawad. There will also be a tendency for the so-called self-acquisitions to encroach upon the Tarawad property. The result will be the dismemberment of every Tarawad in the course of a few years, and the substitution of a system of inheritance by wills instead.

If it be so, it is in my opinion a consummation devoutly to be wished for. If there be such a strong current of feeling against the Marumakkatâyam Law that the people will not hesitate to avail themselves of any loophole that they may find to escape out of it, I say that that feeling should be respected; and any legislation that would safely bring about the wishes of the people will do nothing but good to the country. But it seems to me that such a feeling does not exist, and that the fears of those who may augur the immediate dissolution of the existing Tarawads are groundless. There are controlling forces of society which are at work even among savages. "The pressure of public opinion compels men to act according to custom which gives the rule as to what is to be done, or not done, in most affairs of life." "In England the power of wills has become so great that in theory a man may leave his property to whom he pleases; but practically this is kept within bounds by moral feeling and public opinion, which condemn it as an unnatural act for a man to strip his own children to endow a stranger or a hospital." Such being the case in a country of change and progress, there is no reason to suppose that in a custom-ridden country like Malabar, the testamentary power will be used by the generality of the people prejudicially to the interests of those who, by the custom of the country, are considered to have a moral claim to a share in the property of the testator.

6. It seems to me that in any legislation on the subject the definition of self-acquired property is a point to be carefully considered. We must have in the first place a clear conception of what is, and what is not, self acquired property. I do not know whether the connotation of this expression has been clearly laid down by judicial decisions. If it has been, there should be no difficulty in embodying in the proposed enactment a definition, or an explanation, of the nature of the property that will be affected by it. The absence of any such definition or explanation will, I fear, lead

to endless difficulties and unceasing litigation. I read in Mr. Ramachandrier's 'Malabar Law' that the law ordinarily presumes that any property not shown to be separate is joint. It also appears that "property acquired by any member of a Kovilagam is in accordance with the principle recognised in the case of joint Hindu family presumed to be the common property of the Kovilagam until it is proved that it has been acquired otherwise than with the aid of the common fund." "A karanavan who is in possession of the family funds will be presumed to have made all acquisitions with them and for the benefit of the corporate body. The presumption is strong in the case of a karanavan against self-acquisition." The burden of proof in a question touching self-acquired property will, therefore, lie on him who asserts that the property is self acquired. It may not be difficult for the acquirer to prove his self-acquisition, but the case is different with the legatees of such property, who are not likely to have the same facilities, or knowledge of facts, to produce the requisite proof in such cases.

In this country the sources of self-acquisition are not at present many. Hardly any of the followers of the Marumakkatâyam Law are engaged in extensive trade or large industries. Land is the chief means of subsistence and of profit. In fact it may be regarded as almost universally true that a Malayali acquires property only in one of two ways, viz.,

1. By holding and cultivating land.
2. By employment, public or private.

In the first case it will be hardly free from doubt whether the property was not acquired with the aid of the common fund of the Tarawad, and can be considered as self-acquisition. In the second case the question always arises how far the property may be regarded as the gains of learning acquired with the aid of Tarawad property, and therefore legally claimable by the Tarawad. Thus the bone of contention will in almost every case be present. In this over-litigious country a moot point of law is a premium on litigation, and if no clear idea of self-acquired property is offered by the enactment I am sure that every Will made under its sanction will be contested in courts. The legislature will, in my humble opinion, act wisely in leaving as little in such matters as possible to the discretion of the courts.

7. As regards the first of the two questions quoted in para 2, I have no hesitation in answering it in the negative. Legislation without a real object in view is pernicious: what then is the object of the proposed Bill? Referring to the statement of objects and reasons that accompanies the Honorable Mr. Sankaran Nair's Bill I find that that Bill was intended to carry out one of the suggestions made by a committee that was appointed in 1884 to consider Mr. Logan's Report on the Land Tenures of Malabar. This committee appears to have based their recommendation for the enactment of a Marriage and Succession Law for Malabar on the belief that "there is a consensus of opinion among the majority of those interested that the time has come when a permissive form of marriage should be provided for Hindus following the Marumakkatâyam Law of succession." This is indeed a startling announcement. It can hardly be that the consensus of opinion has reference only to the opinion of

- * 1. Raja Sir T. Madhava Rao.
- 2. Mr. W. Logan.
- 3. " A. Wigram.
- 4. " P. Karunakara Menon.
- 5. " C. Sankaran Nair.

the two Malayali members of that committee of * five gentlemen. If it refer to the public of Malabar, it is a pity that no mention was made of the means taken by the committee to gauge the opinion of the public. Subsequent events

have proved that the so-called consensus is not a fact, which does not require proof.

Why, the commission which is now going to sit would of course have been unnecessary if the statement that such consensus of opinion existed, were regarded as of unquestionable accuracy.

8. Looking then to the speech of the Honorable C. Sankaran Nair while moving for leave to introduce his Bill into the Legislative Council, I find that the object of the Bill was then stated by him in these terms. "The effect of the law is such that our wives are concubines and our children bastards in a Court of Law, and the necessity therefore for a Bill to legalise marriages, and to provide for the issue of such marriage, seems apparent." This is certainly very strong language to use and it behoves one to see how far the Honorable gentleman was justified in using it.

9. I would here premise that in discussing the matrimonial status of Malayalis, strangers do frequently evince a disposition of mind akin to that of the person who is reported to have defined orthodoxy by saying that "orthodoxy is my doxy, heterodoxy is your doxy." Partiality to one's own customs and manners makes one forget that other people may live as contented and happy as one-self under different customs and manners in which they are born and bred up. Witness the travelers' accounts of strange races, especially when the latter happen to be inferior to them in point of civilization. In the case of Malabar it must be remarked that the isolated nature of the country, and the uncommunicative and reserved disposition of its inhabitants, added to its peculiar laws of inheritance and of property in land, have given birth to numerous wild and ridiculous stories about the country and its people. A Telugu graduate of the Madras University hailing from the Northern Circars once consulted me, in all earnestness, as to the best mode of reclaiming a relative of his who had left Madras on a visit to Malabar, and who was therefore given up by his friends and relations as lost. He (the graduate) was under the impression that a portion of Malabar, covering about half its entire extent, was peopled solely by the fair sex and that strangers of the opposite sex, who visited the country, were enthralled there for life by female witch-craft. No wonder that these queer notions, coupled with the common error of measuring other peoples' corn by one's own bushel, made strangers conclude that there was no such thing as marriage among Malayalis. It is sad to find that even the High Court Judges of former days fell into this popular error. The Honorable C. Sankaran Nair bases his statements above referred to mainly on certain remarks passed by the High Court in a judgment of 1869. The High Court said "the relation is in truth not marriage, but a state of concubinage into which the woman enters of her own choice, and is at liberty to change when and as often as she pleases." The prominence here given to the supreme will and pleasure of the female refers to a state of things which does not obtain at present, and which so far as my information goes, did not exist within the memory of living man. In fact in former days the will of the senior male member of a Tarwad was, in domestic matters, even more powerful than it is now. Then the displeasure of the Karanavars of either party to a marriage meant a dissolution of the marriage tie. No wedding took place without the consent and intervention of the elders of the family, as the formalities attending a wedding even at present, clearly show. The Karanavars did not hesitate even to belabour their sisters and nieces who acted against their will or contravened their orders. Mr. Chandu Menon's novel "Indulekha" gives a vivid and true picture of the subordination of the will of the females of a Tarawad (excepting of course anglicised Indulekha) to the will of the senior male, a state of things which obtains throughout Malabar.

10. The fact is that the theory of succession prevailing in the country misled all. But theory differs wholly from practice. Mr. Lewis McIver remarks in an article on Malabar, the materials for which were furnished by Mr. Logan, and revised by Sir W. Robinson, "A Malayali woman does not exchange her ancestral home for that of her husband: the husband comes and lives with her; children do not cling to the families of their fathers, but to those of their mothers. Property passes not from father to son, but from mother to daughter. Thus far the pure theory: but experience, probably at an early date, proved the necessity, and time has developed the custom, of the eldest male member of the family managing the property of his sister and he is succeeded by his sister's son."

11. The High Court considered the sexual relation existing in Malabar not as marriage but as a state of concubinage. What then is marriage? Does it consist in tying a *tâli*, or putting on a ring, in joining hands by a priest, or the recital of certain mantrams, the entry of names in a register, or the execution of a deed of settlement? I think not. Marriage is the union of man and woman, entered into with the intention of continuing the same till the end of life, and which is celebrated in accordance with formalities prescribed by the community in which they live, and is recognised by such community. The devolution of property from father to son is not a necessary concomitant of marriage, although the one follows the other in most of the civilised communities of the world. Dr. Tylor in his interesting treatise on Anthropology remarks. "It seems to us a matter of course to reckon family descent in the male line, and this is now put in the clearest way by the son taking the father's surname. But in lower stages of civilization, on both sides of the globe, many tribes take the contrary idea as a matter of course. In most Australian tribes the children belong to the mother's clan, not the father's: so that in native wars father and son constantly meet as natural enemies. Chiefship often goes down in the royal mother's line, as among the Natchez, who had their sun temples in what is now Louisiana. Yet this widespread law of the female descent, deep as it lies in the history of society, had been so lost sight of among the ancient civilised nations, that when Herodotus noticed it among the Lykians, who took their names from their mothers and traced their pedigrees through the female branches only, the Historian fancied this was a peculiar custom, in which they were unlike all other people."

I would, therefore, with all deference to the High Court of 1869, submit that no rights of property need be founded on a sexual relation to entitle it to the honor of being styled marriage. To say then that "our wives are concubines and our children bastards" is a gross mistake due to the ignorance of the conditions of the society in which we live. It is not unlikely that with the better knowledge of the real state of things now obtaining, and on a correct representation of facts the High Court of the present day may hold that the sexual relations existing among the Hindus following the Marumakkatâyam Law are as well entitled to be called marriage as those obtaining among any other people. What is wanted therefore is a correct representation of facts at the proper time and place, and not any revolutionary change in the existing form of marriage.

12. Intelligent and observing strangers have already grasped the situation, Mr. Ramachandra Iyer of the Statutory Civil Service, who was some time the Subordinate Judge of South Malabar observes in the introduction to his manual of Malabar Law. "This ceremony which is called Potamuri generally take place after

the girls attain age, and though not celebrated on the same scale of grandeur as Kêttu Kalyânam yet it is attended with all the solemnity and publicity of a marriage. Potamuri, or Kidakora, is marriage in the proper sense of the term, and it is akin to the Gandharva form of marriage recognised by the shastras, and which has its foundation upon the mutual love and consent of the parties, and this form is as good as any other form of marriage. In the Potamuri ceremony the castemen and relations assemble, and in their presence the bridegroom presents a suit of clothes to the bride, and after treating the guests of castemen to a banquet, and distributing money among Brahmans, the couple retire to the bed-room. This ceremony corresponds to the nuptial or consummation ceremony observed by non-Malabar Brahmans and other Makkatâyam Hindus. Even a Nambudri wishing to form an alliance with a Nair woman is required to observe the Potamuri ceremony, and publicly pass for her husband, and any Nair woman conceiving and bringing forth children before openly taking a husband in the manner above stated is outcasted with her children. In the face of these customs how can one say that there is no marriage among Nairs?" A similar opinion is expressed by Mr. Lewis McIver in the article on Malabar which he wrote for the Imperial Gazetteer.

13. Is it then because the present form of marriage breeds immorality, or is otherwise defective, that a change in form is desired by some Malayalis? Nobody who has the slightest pretension to a knowledge of society as it exists in Malabar and in foreign countries can justly say that the sexual morality of Marumakkatâyam Malabar would compare unfavourably with that of her Makkatâyam neighbours. In his article on Malabar referred to already, Mr. Lewis McIver observes, "The statement that the younger cadets of Nambudri families live with Nair women, merely reproduces in English the Malayali mode of describing the married life of these people and of the Nairs. It is part of the theory that the women they live with are not wives, that they may part at will, that they may form new connections. This part of the Malabar Law has, in the hands of unenquiring commentators, brought much undeserved obloquy on the morality of the people. Tippu in his pompous and inflated history denounced it as shameless and sinful; and such authorities as Temple and Wilks have countenanced this view. The fact is that although the theory of the law sanctions freedom in these relations, conjugal fidelity is very general. Nowhere is the marriage tie albeit informal, more rigidly observed or respected, nowhere is it more jealously guarded, or its neglect more savagely avenged. The very looseness of the Law makes the individual observance closer; for people have more watchful care over the things which they are most liable to lose. The absence of ceremonial has encouraged the popular impression: but ceremonial, like other conventionalities, is an accident, and Nair women are as chaste and faithful as their neighbours; just as they are as modest as their neighbours, although their national costume does not include some of the details required by our conventional notions of modesty." Similarly Mr. Ramachandrier speaking from personal experience gained in the country, states in his Manual of Malabar Law, "There is no truth in the general condemnation that the ties of matrimony are not respected in Malabar. The giving and accepting of cloth is the essential of the contract, and this is what takes place at Potamuri ceremony. But in the generality of cases the wife remains in her own Tarawad, is maintained there, and is visited there by the husband, and the children become members of her, and not of the husband's, Tarawad. These anomalies of married life, and especially the fact of a few Nair Tarawads of a low order in

Nedunganad adopting the Polyandrous system to the utter contempt of their brethren there and elsewhere, have no doubt contributed to create an unfavorable impression among strangers as to the Nair women's fidelity and loyalty to their husbands; but it may be observed that constancy of love and attachment to one husband are virtues as much respected among Nairs as among any other community, although the want of permanence in the marriage tie may lead to derelictions resulting in separation at the will of either party." Of course, there are men and women who abuse the privileges given them by the custom of the country, and who behave themselves in a way in which no respectable person would behave, and which is disapproved by the community. Such persons are found in all societies and among all nations. No law can reach them. For was it the want of a law that engendered the corruption described in the horrible disclosures made by General Booth of the Salvation Army in his plea for the fallen women of London? There are certain classes of people even among the most highly civilised nations, who have not the least rudimentary conception of propriety in sexual matters and who are certainly not the samples of the sexual morality of a nation. It is not to the slums of London, where you may find a man who would sell his wife for a glass of beer that you should look for a standard of the morality of the English nation, nor is it the nobleman debauchee, married or unmarried, who would not scruple to seduce the beloved wife of his neighbour, that should be taken as an example to illustrate the condition of the marital relations obtaining in a country.

If it be asserted that whatever immorality exists in sexual matters among the followers of Marumakkatâyam Law is caused by their peculiar marriage customs, I would answer that there is no truth in the statement. If marriage laws can improve the sexual morality of a people, what accounts for the innumerable scandals in married life which we find disclosed *ad nauseam* in the society journals of London, and in the proceedings of the Divorce Courts? If sexual morality can be rigidly enforced by laws there should be no difficulty in dealing with the problem of crimes resulting from enforced widowhood, which is exercising the minds of educated India. The writer of a recent article in the Fortnightly Review on "morality among Russians" describes the sexual morality prevailing among all classes of that people. The picture there drawn of Russian Society, both high and low, is a dark and unenviable one. Surely Russians have Marriage Laws, and Christian Marriage Laws too!!

14. Instances may be multiplied to show that civil laws are utterly helpless in the matter. It is my humble opinion that the morality of a people can be effectually governed only by social laws. In fact people are guided in such matters chiefly by what is called the moral sanction as distinguished from the legal. It is a stock argument of those who are in favour of "legalising marriages" as they call it, that if society be considered able to exercise an adequate check on matrimonial offences there is no reason why other offences as those against person and property, cannot be left to the control of society and the Penal Code struck off the statute book. These men seem to forget the fact that there are different degrees of criminality, and that a lie cannot be placed in the same category with murder or theft. It is not all moral offences that are recognised by the Penal Code, and I for one am inclined to think that the omission of offences against marriage from the statute book would not in any sensible degree affect the morality of the people.

15. One defect in our marriage customs is said to be that neither the marriage nor the divorce is attended with grand ceremonials, religious or secular. The union, it is said, amounts to no more than a casual relation terminable at the will or

caprice of either party. It is true that the priest has very little to do in our marriages. In the generality of cases, of course, the blessings of Brahmans are invoked by the payment of *dakshina* on occasions of wedding. But the omission of this formality is not considered serious. I believe that in ancient days no religious rites accompanied marriages among Sudras anywhere, and that the religious ceremonials obtaining at present on marriage occasions of the Sudras of the East Coast, have resulted from the aping of the manners of the Brahmans, which took place as Sudras began to rise from the position of slaves, which ancient Laws assigned to them. This view seems to be supported by the arguments in the case reported in VIII. M. H. C. R. 138. It is there stated, "In former ages the Brahmans did not legislate for Sudras; for Sudras there are no mantrams, no peculiar marriage ceremonies, no ceremony for divorce; the woman may be superseded at her husband's pleasure, and she may leave her husband when she pleases." The statement, however, that our marriages are not accompanied by any ceremonial whatever misrepresents facts. The form no doubt differs in different parts of the country. But everywhere the following features are recognised and followed;—

- (1) The marriage is arranged for by the elders of the two families.
- (2) The astrologer is consulted as to whether the union would prove auspicious,
- (3) The bridegroom proceeds to the house of the bride on the day appointed accompanied by his kinsman and friends, and taking with him present for the bride in the shape of clothes, or betel and nut.
- (4) The relatives and friends of the two families are feasted on the night of the wedding.
- (5) The wife is taken to the house of the husband by the female relatives of the latter, on an auspicious day. After a few days' sojourn in the husband's house, she is presented with some jewels and taken back to her mother's house. After this ceremony is concluded and not till then, the wife may go to her husband's house whenever she pleases.

I should not be understood as saying that the non-observance of the above formalities is considered to render the marriage null and void. Solitary instances here and there may be cited to show that even without these formalities men and women do become, and pass publicly for, husbands and wives. But such cases are not considered respectable, and are in fact only exceptions that prove the rule.

It is true that no particular formality is required to effect a divorce. But in general the elders of the family are informed of the separation, and of the cause thereof. There is also a certain degree of social disapprobation attaching to divorce on insufficient grounds, but I must admit that the disapprobation is not sufficiently strong to deter the occurrence of such divorces. This is a defect in our marriage customs which is no doubt liable to some abuse, but the only effectual and safe remedy for it seems to me to lie in the hands of the society. An indissoluble marriage is in these days of progress and enlightenment an anomaly, and any measure calculated to effect such a marriage is a retrograde step. The intervention of the Law Courts in divorce cases will, as sure as anything, prove a curse, as the working of such a system among other nations clearly show. Besides the proverbial glorious uncertainties of law, there are considerations of expense and publicity which deter even the

most injured of individuals from bringing to book an erring wife or husband. The domestic unhappiness and misery which follow can best be imagined. Society is the best judge in such matters, and all that is wanted is a strong and sound public opinion on the subject. So far as I know, public opinion in the matter has of late been gathering strength, and we may hope that with the spread of education it will at no distant date be fully developed.

15. An instance generally cited of the evil results of our marriage customs is the liberty which the Nambûdiri land-lords are said to take with the Nâyâr women of their dependent tenants in the rural tracts, and much capital is made out of this allegation by the advocates of a Marriage Bill. I for one do not think that the evil complained of is the outcome of the peculiar form of marriage prevalent among Nâyars, and can be extirpated by any modification of that form. It must be remembered that in all ages and in all climes men of wealth and position, if evil disposed, find little difficulty in circumventing the object of their machinations. It is an open secret that there are officials on the East Coast, holding high and responsible positions under Government, who are a terror to husbands within their jurisdiction, and instances are not wanting where Zamindars and Rajas use their power over their tenants and dependents successfully in satisfying their lust. It is not therefore the peculiar marriage customs of Malabar that allow the land-lords of this agricultural country such freedom among the women of their dependents as they are said to have, and no Marriage Law can deprive them of that freedom so long as they remain masters of the soil.

16. But the real secret underlying the present agitation for a Marriage Bill is a desire to effect a change in the existing law of succession. This is plainly put in a petition which I understand has recently been sent up to Government by some Malayalis. The system of inheritance now obtaining is said to be unnatural, and the first instalment of a change is sought in the shape of a bill legalising the devolution of self-acquired property from father to son. I do not mean to discuss here the merits and demerits of the Marumakkathâyam Law of inheritance. That this Law did in ancient days immense good to the country goes without saying. But old Laws working under new circumstances are apt to produce results which those who framed them never foresaw. It worked smoothly enough so long as the Karanavan held supreme sway, and his word was law to the junior members of the Tarawad. But times are changing and individual freedom and liberty, bordering on license, are the order of the day. The result is continual bickering between the Karanavan and his Anandiravars. A change in the Law of succession is supposed by some to bring peace to the country; but the practical question arises how such a change can be brought about without a revolution, as the Marumakkatâyam system enters into, and is closely interwoven with, the religious, domestic and social life of a Malayali. We are at present, however, concerned only with the question of making a provision for one's wife and children. I do not see the necessity of a bill for this purpose. It is a false cry that on the death of a man, who has made no provision for his wife and children, these are turned into the streets helpless, and are left to starve. Those who say so forget the fact that the wife and children belong to some Tarawad which is bound to, and does, maintain them. Some Malayalis point out the hardship of the children of a poor Tarawad having no claim to the property of their rich father, but it must be remembered that there are also corresponding cases of the children of rich Tarwards having poor fathers, and that rich fathers are not after all so abundant

in the land as may be supposed. The Honorable C. Sankaran Nayar's bill deals with the claims of wife and children only to a man's self-acquisitions. As a matter of fact Malayalis, who can boast of any self-acquisition, do make provision for their wives and children and the only difficulty at present is in respect of cases where men die without making any such provision. The grant of testamentary power to Malayalis will, I believe, remove this difficulty, and that is in my opinion all that is wanted at present. There will still be men who would agree that provision should be made by law to cover cases of intestate property: but such cases will certainly be very rare, and it is not possible for any legislature to anticipate and provide for every such contingency. It must not also be forgotten that there will obviously be very great difficulties in administering a double law of inheritance in the same family.

17. For the reasons stated above, I am of opinion.—

(1) That the form of marriage obtaining among Marumakkatāyam Hindus is not one which the law cannot recognise.

(2) That the non-recognition of it by the courts hitherto was a mistake due to ignorance, and perhaps misrepresentation.

(3) That if the courts still refuse to recognise it, the happiness and welfare of Malayalis will not in the least be affected thereby.

(4) That the evils which are fancied to be the result of the present form of marriage are not really so, but are produced by other causes, which nothing but the united will of the community and a strong public opinion can remove.

(5) That a change will only put Malayalis in the position of the ass in the proverb, which ran from place to place for what appeared to be better pasture from a distance, but which turned out to be no better than what it left, and thus starved all day.

(6) That a marriage bill is not only unnecessary and uncalled for, but will, if inflicted on the people in the shape in which it is now proposed by some, cause the greatest unhappiness and suffering to which they are at present strangers.

(7) That a permissive bill is worse than a compulsory one in as much as to the evils of the latter it adds that of confusion.

(8) That if it be proved that the Marumakkatāyam Hindus do at present suffer from evils arising from their marriage customs which nothing but legislation on the subject can remedy, a half-hearted measure like the permissive bill that is contemplated, can do no good, as it will not touch those who alone, if at all, need be bound by any laws,

I have the honour to be,

Sir

Your most obedient servant,

P. GOVINDA MENON.

*Dy. Superintendant of
Census Operations.*

Answers.

1. The general rule is that a man of a higher division may have *Sambandham* in a lower division. The exceptions are *Veluthédan*, *Velakkatra* and such like divisions, whose touch is pollution even to the Nayars of higher divisions. Generally speaking, *Sambandham* between a higher and lower division is seldom formed with the consent of the Tarawad, as the wife can have no admission to the kitchen of the husband and can be of no use in the domestic duties of the husband's Tarawad.

2. Women can consort only with men of equal or higher divisions, and never with lower.

3. Among Nayars the real test as to whether *Sambandham* between two divisions is permissible will be found in the answer to the question whether the females of the two divisions may eat together. Where the touch of the members of one division entails pollution on those of another, *Sambandham* between those two divisions is absolutely forbidden.

4. *Sambandham* formed in contravention of recognised rules, stated above, subjects either or both of the parties to social excommunication.

5. Such a *Sambandham* can never be *validated* by a *Prâyaschittham*. But a renunciation of the marriage, followed by a *Prâyaschittham* would in most cases entitle the excommunicated party to re-admission to caste.

6. In certain caste matters, *Korapuzha* is generally spoken of as the boundary between North and South Malabar.

7. Generally speaking, Nayars of North and South Malabar intermarry.

8. A Nayar of South Malabar may marry a Nayar woman of North Malabar. But such cases are not frequent or numerous owing to the difficulty which North Malabarians, whose knowledge of the outside world is comparatively speaking very limited, feel in ascertaining the real caste of a man of South Malabar. Where such caste is known beyond dispute, as for instance in the case of Kârapalli Kurups, intermarriages are allowed and do take place.

9. The Nayar women of North Malabar are not generally permitted to cross to the south of *Korapuzha*.

10. The reason alleged for the prohibition is simply custom. But I believe the custom originated in the days of the mortal feuds which existed between the reigning families of Kolattiri and Zamorin in the last century, when the subjects of the former feared that their females might be dishonoured if they entered the territory of the Zamorin. This grew into a custom which, like many other customs, now appear arbitrary and unreasonable, because it has lost its sense by lasting on from the state of life to which it properly belonged. It is significant that old ladies of North Malabar are not prohibited from crossing to the south of *Korapuzha*, on pilgrimage or for other purposes.

11. A pretty correct description of the *Tâli-kettu Kalyânam* will be found in paras 32-33 of the introduction to Mr. Ramachandra Iyer's *Manual of Malabar Law*, and at pages 134-135 of Mr. Logan's *Malabar Manual*.

12. The *Táli* is tied in some castes by a man of the same caste, in others by a Nambûdiri, and in others by a man of higher caste deputed by the Raja, who is acknowledged as its lord by the caste. The man is called *Manálan* in some parts.

13. It is the custom for a number of girls of the same Tarawad and, in the case of the poor, of the same caste, to have the *táli* tied at the same time and place but not by the same individual.

14. The man who ties the *táli* does not, at any rate in this part of the country, obtain thereby a right to cohabit with the girl. The reason is that *Táli-kettu Kalyânam* is not regarded as marriage.

The word "Kalyânam" means simply an auspicious ceremony, *e. g.*, *Tirandu Kalyânam*, *Kuri Kalyânam*. Whatever might be the origin of this *Kettu Kalyânam* and whatever analogies it might possess to the marriage ceremonies obtaining among other Hindus, it goes without saying that in its present state it has no more meaning than an analogous ceremony which is observed by the Coorg people and is thus described in the Coorg Manual. "On an auspicious day, fixed by the village astrologer, all the children of the village, both females and males are gathered together at a public place and amidst general rejoicings, and in the presence of the assembled villagers the ears of the children are bored by the village goldsmith. When this ceremony is concluded the children are declared competent to marry. No boy or girl may choose a wife or husband until he or she has gone through this ceremonial."

15. There is no prohibition so far as I know, to the *Manálan* marrying the girl on whose neck he has tied the *Táli*.

16. I have never known such an instance.

17. When the man who tied the *Táli* dies, there is no pollution to the girl, so far as I know. But I am told that in certain classes of Nayars, and especially when the *Táli* is tied by a man of the same caste, the girl should bathe on hearing of the death of the man who tied her *Táli*.

18. It appears that in the case of the poor the *Táli* is sometimes tied on by the girl's mother in the presence of the village, or tutelar, deity.

19. Every Nayar girl must, under pain of excommunication on default, undergo the *Táli-kettu* ceremony before reaching the age of puberty. I do not know if there is anything but custom to be pleaded in justification of this.

20. After *Táli-kettu*, there are certain formalities to be observed for the wedding. These will be found described pretty accurately in paras 34-35 of the introduction to Mr. Ramachandra Iyer's Manual of Malabar Law. In many parts of South Malabar betel leaves and nuts, take the place of the cloth mentioned by Mr. Ramachandra Iyer.

21. When a Nayar girl is given in marriage to a man of a higher caste the same formalities are observed, with the exception that the bridegroom does not join in partaking of the feast that is provided in the house of the bride.

22. I do not know much of the form of wedding obtaining in North Malabar. In South Malabar there may be local peculiarities in minor details, which are of no importance.

23. A Nayar woman can have *Sambandham* with only one man at a time.

24. Any deviation from this rule is marked by Society with the stamp of disgrace. I do not know if there are any texts that can be quoted in support of the rule. Custom is generally the guide in such matters.

25. There is nothing to prevent a woman terminating the *Sambandham* when she likes, except the fear of social disgrace and self-interest.

26. In this part of the country, the only formality required in dissolving the connection is to let the elders of the families know that it is severed for reasons stated. In some cases, if the husband or his Tarawad, do not send the usual presents to the Tarawad of the wife for *Onam*, *Vishu* and *Tiruvatira* (*Ardra*) or if on sending, the latter refuse to accept them, the union is treated as severed.

27. A man may marry as many women as he pleases.

28. It is not generally considered disreputable, and there is nothing to prevent it.

29. During the continuance of the marriage union, the woman lives either in her own Tarawad or in that of her husband. The latter is the case in the majority of instances, so far as I know.

30. I do not know if the custom varies in North and South Malabar.

31 and 33. According to recognised custom, the husband or his Tarawad must provide clothes, oil and other necessities for the wife when she lives in her mother's house, and must also feed her and her children when they live in his house. Failure to do this is deemed a sufficient cause for dissolving the union.

32. It is the rule for one man and one woman to cleave together for life.

34. An *Anandiravan* working for the Tarawad is given maintenance on a scale suited to the means of the Tarawad, but according to the will and pleasure of the *Karanavan*. There are cases of their cultivating Tarawad land for rent. In such cases they are not worse off than the other tenants of the Tarawad, who have only to account for the stipulated rent.

35 and 36. There are *Anandiravans* who work for the Tarawad and there are those who do no work, or work only for their self-aggrandisement. This depends upon the natural disposition of the men, the extent to which they are influenced by public opinion, and various other circumstances. For instance, a man who loves his Tarawad, who has not many calls on his purse from outside the Tarawad, or who is wedded to a lady of moderate ambitions and belonging to a well-to-do family, will be found to set apart the major portion of his earnings to his Tarawad. On the other hand, one who has no affection for his Tarawad and takes every opportunity to quarrel with his *Karanavan*, who has no character to lose or who is a doting husband wedded to a grasping and impecunious woman, or to a loving wife of poor family, will be found to earn little or nothing for his Tarawad. In all cases, earnings that are not handed over to the Tarawad are given to the wife and children, unless the man happens to be a debauchee who squanders his fortunes on wine and women.

37. I understand that "*Puthrâvakâsam*" is nothing more than the name given in North Malabar to the property acquired by children from their father, and that it has no reference to anything which they might claim as a matter of right if their father failed to give them. If my informant is correct, there is, ofcourse, such a thing as *Puthrâvakâsam* in South Malabar too.

38. I have stated at length in my letter dated 15th ultimo the serious objections that in my opinion exist to providing a permissive Marriage Law for Nayers, understanding by permissive Marriage Law an enactment of the stamp proposed by the Honourable C. Sankaran Nair.

39. If it be decided that legislation on the subject is desirable or necessary, I think it would be unwise to insist on any form of marriage other than that prevailing among other Hindus. Registration of domestic occurrences is an idea entirely foreign to Hindu notions, and we cannot expect the one million or more of Hindus in this district to have the same liberal and enlightened views as the handful of my educated countrymen. I would therefore strongly protest against registration in any shape being prescribed for marriage. Such Registration does not obtain among our co-religionists elsewhere, who have not been shown to labour under any disadvantage on that account.

40 and 41. The conditions of a valid marriage referred to in this question differ from the Sambandham recognised in practice in several important respects.

(1) Polygamy is not prohibited in practice.

(2) Girls of 12 are generally given in marriage.

(3) At present the consent of the Karanavar is in all cases necessary whether the parties are minors or not. If that be not obtained, the wife is not allowed admission to the Tarawad house of the husband, or the husband is refused admission to the wife's house, as the case may be.

(4) 1st Proviso. There are considerations of caste which at present prevent persons from marrying. There are also superstitious folk, to an extent that will amaze even sober reformers, who will not permit any marriage that is not sanctioned by the astrologer, on consulting the horoscopes of the bride and the bridegroom.

2nd Proviso. If I understand this proviso aright it sanctions marriage between persons who have what is called *pula sambandham* (relationship by pollution) and between whom sexual connection is at present regarded as incestuous.

41. I would certainly not disregard caste distinctions. To ignore them in any piece of legislation, affecting the social condition of the Hindus, will be an inexcusable blunder. The tenacity with which Hindus cling to the caste system is well known, and no where are the caste observances more rigidly enforced than in Malabar. However deplorable this state of things may be, it is a stern fact, which cannot but be recognised and requires to be duly provided for. Again the proviso regarding marriages between consanguineous persons is faulty. Existing customs relating to it should be respected. In fact both the 1st and 2nd provisos to the 4th condition should be struck out, and a fifth condition should be added declaring that the parties must not belong to different castes, a marriage between whom would by any recognised custom be improper.

42. According to social usage, a divorce may reasonably be effected for,
1. Adultery by wife. 2. Cruelty by husband. 3. Imprisonment of either party in criminal jails. 4. Loss of caste. 5. Incompatibility of tempers.

43. My reply to question 31 answers this question also.

44. The new rights arising from the proposed marital relations referred to in this question are, in my opinion, sure to lead to complications of a serious nature.

A thorough change of the system of inheritance from Marumakkatâyam to Makkatâyam, which may convulse the entire social fabric for a time, need not be so much feared as the proposed partial change. Any attempt to graft on the Marumakkatâyam system rules and ideas, which are quite against the grain of that system, will produce nothing but discord and litigation. A double system of inheritance is said to cause a good deal of unhappiness and misery in certain Moplah families which are governed by it, and that is nothing more than what may be expected. I do not see why the testamentary power should be restricted to those who avail themselves of the provisions of the proposed Marriage Act. It is, I suppose, the sweet offered to the Malayali public in order to induce them to swallow the bitter pill.

45. *Sambandham* between the Nayars in British Malabar and those in the Native States of Malabar is customary and frequent, and takes place freely in all cases where the castes of parties are well known to each other, and are suitable.

(Signed) P. GOVINDA MENON, B.A.,
Deputy Superintendent of Census,
Calicut.





CALICUT :

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

Answers to Interrogatories

BY

M.R.RY. KANNAMBRA RAMANUNNI NAIR AVARGAL,

JANMI AND MEMBER OF THE DISTRICT BOARD,

(*The Karanavan of the Tarawad is a Nâduvâzhi Chieftain.*)

1. Yes ; he can have.

2. No.

3. Chârnatha cannot form Sambandham with Sudra and *vice versa*. Pallichân and Chârnatha cannot form Sambandham with each other. Vattëkkât and Athikurissi cannot form Sambandham with each other. But a few exceptions, to the last two prohibitions, may be found which are objected to by their castemen. A Kiriya man can have Sambandham with all other Nayar castewomen. The vice versa of this is prohibited. A Sudra man is permitted to form Sambandham with all Nayar castewomen except Kiriya and Chârnatha.

4. If Sambandhams against caste rules are formed, the erring woman, and all her relatives who live with her, or taste any food or water touched by her, will be excommunicated by their castemen, called Enangar. Excommunication means that no other Enangar will join them on the occasion of any death, birth, or marriage ceremonies in their houses. Neither the excommunicated will be permitted to attend any such ceremonies in the houses of any of their castemen.

5. No ; it cannot be. But the woman's relatives and castemen, who disobeyed the excommunication orders of the castemen, may be taken back by a Prâyaschitham

6. Korapuzha.

7. The Nayars of South Malabar do not generally form Sambandham with the Nayar women of North Malabar ; but North Malabar Nayars do sometimes form Sambandham with South Malabar Nayar women.

8. Yes ; he can. The reason why a South Malabar man does not form Sambandham with a North Malabar woman, and why a North Malabar man does with a South Malabar woman is this ; the women of the former can cross Korapuzha ; while, the women of the latter cannot do so without breaking the caste rules. A man generally wishes to marry a woman of his country and neighbourhood if possible. Therefore a South Malabar man has no necessity to marry a North Malabar woman. A North Malabar man when duty detains him in South Malabar is obliged to form Sambandham with a South Malabar woman, since no woman of North Malabar can cross Korapuzha.

9. Yes ; they may cross the river.

10. In ancient times when the country was subjected to foreign attacks, especially of the Mohammadans through Palghat valley and Wynad, and also subjected to internal disorders and mis-government, it was considered unsafe for women of either country to leave their own neighbourhood. Hence the restriction. South Malabar women were similarly prohibited from crossing the Wâlayar River. Now the cause being removed the restriction is useless.

11. It is a marriage. All the formalities of a Makkathayam marriage are observed in a Tâli-kettu kalyânam of a Nayar. The only difference is that the Nayars have no Manthrams but only Tanthrams, which are almost the same with those of a Brahman or Kshatriya, which is therefore a religious marriage, if there is anything religious to a Nayar. It consists of (1) Vari-yezhutha, or preparing an estimate of marriage expenses by castemen. (2) Ashta mangalyam, that is electing a bridegroom to a bride (girl) by referring to the horoscope of both, with the assistance of an astrologer, or Kanissan. (3) tali-kettu, that is the tying the Tali by the bridegroom. For this ceremony a prosperous day and time, called muhûrtham, is already fixed in consultation with the astrologer. On this occasion, feeding the Brahmans, castemen, neighbours and poor people of all castes, is essential. Giving presents to the Brahmans, and offerings to the pagodas, are also necessary. All sorts of amusements such as fireworks, plays, kathakali and music &c. are to be found on the occasion. The above-mentioned feeding and amusements last for 4 days. On the fourth day, the bridegroom and the bride attended by their castemen and others, are taken to the nearest river, or pond, and after bathing, they wear all sorts of ornaments and are led in procession to the family house with great pomp and cheering. Betel nuts and leaves, and sandal and rose-water &c. are freely distributed among all those who attend the ceremony. The tali-kettu is to a Nayar what an early marriage is to a Brahman, and his Sambandham may be likened with the consummation of marriage of a Brahman.

12. A boy of the girl's own caste division, whose horoscope favourably coincides with that of the girl, should tie the tali. He is called the Manavâlan or Manâlan. The word means bridegroom.

13. If the man who ties the Tali is a Kshatriya he can tie the Tali of several sisters at the same time and place. In no other instances is this permitted. The custom may look awkward; but when compared with the custom of a Kshatriya marrying several sisters at the same time and place, the meaning of this custom will be clear.

14. Yes; if he does not forego his right by a divorce on the 5th day. On the 5th day of tali-kettu kalyanam a formality is usually observed. The bride holds one end of her new double cloth called mantravadi (mantra + kodi), and the bridegroom cuts it crosswise with a knife, thereby denoting a dissolution of their marriage connection. When there is a will on both sides to live as husband and wife this ceremony of divorce is not performed. He may afterwards form Sambandham with the girl.

15. See answer to 14.

16. Yes. I can point out many instances of such Sambandham.

17. The pollution is observed by all divisions of castes in most Taluks, if the man who ties the Tali is of the girl's own caste division, and not superior caste-man. The Chârnata division does not observe the pollution of a kettiyavan (he who ties) as the tali-kettu of their girls is invariably performed by a kiriyam man or Sâmantatirumulpâd; both of them are superior to the Chârnatha caste, and hence their omission to observe the pollution. Similarly when a Kshatriya-Tirumulpâd ties the Tali of a kiriyam girl (vide the custom of all Nayar chiefs), no pollution is observed; the kettiyavan (tier) being of a higher caste.

18. It is said that there was such a custom, but it was never in general use. If a family either from want of Enangar, or from poverty, is unable to perform the tâli-kettu ceremony, it is said that the mother may perform it in the presence of

Mādhêra, or Mahadêvar, the family God of a Nayar. This is simply to avoid the penalty of not performing the ceremony. This shows how indispensable is this ceremony in the estimation of a Nayar.

19. Yes; it is the rule. But some exceptions may be found in some parts of Malabar which are not severely dealt with. The general Hindu Law that compels an East Coast Brahman to get his daughter married before she attains puberty, may be cited in support of this. The Nambûdiri custom may be cited in favour of the exceptions.

20. Although no more formalities are compulsory, yet certain formalities usually observed on the occasion of Sambandham, are considered necessary. As for such formalities see my book on the occasion of Ayathâkshy's marriage (vide page 67).

21. Yes, on a small scale and with less pomp and publicity.

22. Those of South Malabar are pretty well described in my book (vide page 67.) Compare that with a North Malabar man's description. They are in all material points the same throughout South Malabar.

23. In days past such a custom was prevalent in some parts of Malabar; but general public opinion doomed it to die, and I doubt whether such a custom can anywhere be found now.

24. It is prohibited. Malayalis should follow the general Hindu Law except in respect of certain changes made by Parasu Rama, and Sankarâchâriyar. Among those changes this could not be found.

25. Yes; but she seldom does so. Whenever she wants to terminate it, she behaves towards her husband in such a manner as to compel him to terminate it by his own accord.

26. Yes; the man either personally, or by proxy, presents to the woman a set of new clothes and a few rupees in the presence of some of their castemen, and says that the connexion is henceforward dissolved. This he does with, or without, explaining his reasons.

27. Yes.

28. Yes; there is nothing to prevent it; the general Hindu Law is in his favour.

29. Now-a-days, she sleeps and takes her meals in her husband's house if he is able to support her. Formerly contrary was the rule. A Marumakathâyam husband is only bound to give her clothing, oil and other extra expenses, but not food.

30. I think so.

31. He is bound to supply her with all the necessities of life except food which she is entitled to get from her own Tarawad.

32. No, one woman to one man is the rule.

33. Yes; he does feed and clothe them.

34. The working Anandaravars will get a small allowance, for cloths, oil, &c. But this is becoming very rare. They cultivate Tarawad lands for rent but this is also becoming rare. In case they get a surplus they may deal with it at pleasure.

35. They do not generally work for the Tarawad. They try to earn something for themselves.

36. With their earnings they not only support their wife and children, but their direct sisters and nephews. They never hand over their earnings to their Karanavan.

37. There is nothing analogous to it in South Malabar.

38. I think it is objectionable unless we are prepared to entirely root out the Marumakkathâyam system. A change in any existing system should only be made, when it is plainly proved that the existing system is against the welfare of the majority of the people, and that the change will produce a better result. The burden of proof lies on those who propose a change. The reasons set forth by the party for the change are merely sentimental in my opinion. Doubtless there are some defects in the present system, but defects there will be in every human institution. Will the proposed change remedy those defects or will it make them worse, is the question? By the proposed change a Nayar will become half Marumakkathayam and half Makka-thayam man—a double-headed man. Will not such a man look more monstrous and awkward in the eyes of a foreigner? If it is argued that by the change, Marumakkathayam will be totally extinguished in course of time, I ask why it should be doomed to die a lingering death. Let it die at once with as little pain as possible. Let it be enacted that each member of a Marumakkathayam family has a right to sue for a division. If the law permits the self-acquired property of a Nayar, whether wholly or partly, to descend to sons, the growth of the family property will be stopped, and the old family property will be gradually ruined by the endless litigation arising from the proposed change. Nayars are already litigious and waste a good deal of money in this way. Is it not then doing a lingering death to allow it to be ruined by facilitating litigation?

What is self-acquired property? The nephews will say that, property acquired by the aid of family property is not self-acquired. The sons will say the contrary. How can a Karanavan's self-acquired property be distinguished from family property? A youth, before he passes B.A., and B.L., burdens a family property with a debt of six or seven thousand Rupees. Is the earning of that B.A., and B.L., youth self-acquired or family property? If it is self-acquired will a single pie be spent in future to educate a nephew? These and thousand others are questions to be solved between nephews and sons. Will a single pie of the growthless ancestral property be left after all these? I, therefore, say if any change is to be made, a right to compulsory division of property may also be a part of it.

39. I prefer to retain the customary form. The other form is quite disagreeable to the taste of a Nayar especially of a Nayar woman.

40 and 41. Require consideration.

42. Adultery and continued illtreatment are grounds for dissolving a Sam-bandham. Incurable disease, or barrenness, is not a ground for dissolution. It is only a ground for another marriage during the life-time of a wife.

43. After the death of a Nayar, his Anandaravars usually supply his wife and helpless children with clothing and oil. By helpless children I mean unmarried females and minor males. The wife is not entitled to get anything after she is married to a second husband.

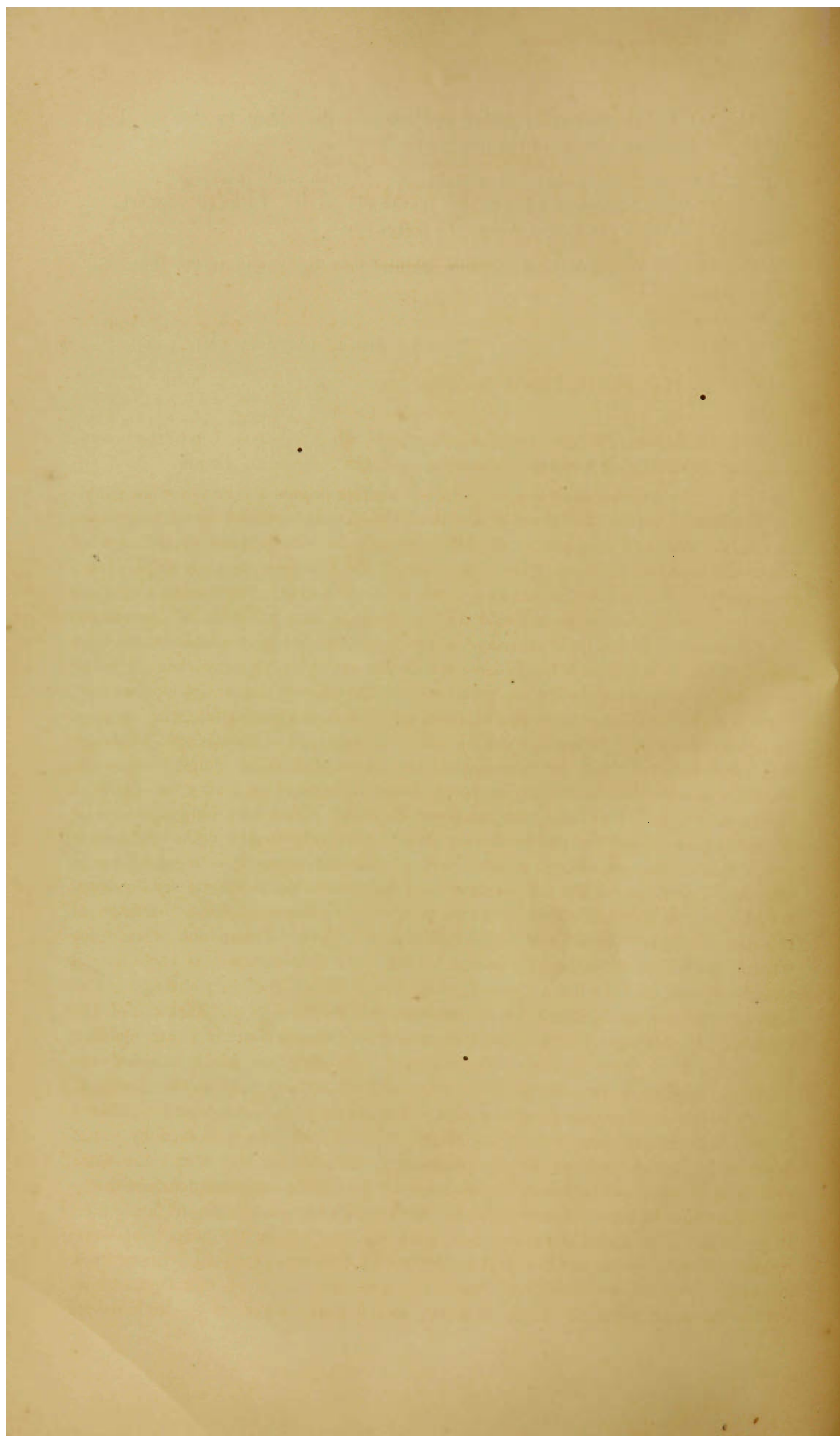
44. (c) In the absence of father and mother, the eldest brother or sister should be the guardian instead of the head of the Tarawad.

(d) "Failing children born to him before or after such marriage" to their children and grand children and not to the Tarawad; as the Tarawad property is doomed to die, I think the sooner it dies the better it is.

(e) Sufficient provision and suitable maintenance are vague terms that will help litigation.

45. Yes.

(Signed) KANNAMBRA RAMANUNNI NAIR.



LETTER FROM
M. R. RY. T. V. ANANTAN NAYAR AVARGAL, B.A B.L.,
DISTRICT MUNSIF.

CALICUT,
22nd April, 1891.

To

H. M. WINTERBOTHAM ESQUIRE, C. S.,

Sir,

With reference to your circular letter dated 8th April 1891, I have the honour to submit the following observations on the questions referred to therein.

1. The first question is whether it is desirable to pass a permissive law enabling Hindoos under the Marumakkathâyam, or Aliasantana Law, to contract a marriage such as the law will recognise. Confining myself for the present to the case of Marumakkathâyam Hindoos, I have to observe that the view that marriage is not recognised in Marumakkathâyam Law is not absolutely true. No doubt, this view is perfectly true in so far as it is said that legal rights such as those of inheritance are not attached to the tie of marriage, but beyond this, the proposition cannot hold good. That, in a system of family-law such as Marumakkathâyam, which is composed of a body of usages regulating the social and domestic life of an entire community, there is no recognition of marriage as a civil institution, is a proposition which cannot be lightly accepted. It is a proposition which is negatived by actual facts. Though it is undeniably true that, for purposes of inheritance and other judicial incidents, marriage among Marumakkathâyam people is not recognised as giving rise to legal rights, it is equally true that, for purposes of social rights and obligations, it is distinctly recognised by the customary law. According to the orthodox custom which obtains throughout the greater part of Malabar, there is a regular form of marriage prescribed for the union of man and wife, and this is known by the name "Pudamuri" in North Malabar. The generic term of designation for a marriage of this description is "Guna-Dôsham," which means a union of man and woman for "better for worse, for richer for poorer." The wife is recognised as such for all social purposes, and she has a distinct status in the Tarawâd of her husband. The wife and children are entitled to maintenance while living in the Tarawâd of the husband, and this right has been judicially recognised among Nairs in North Malabar (vide I. L. R. 6, Madras 341). The husband is, during the continuance of the marriage, entitled to the society of the wife, and the wife to that of the husband. Among orthodox Nairs, adultery is considered a grave social offence and arbitrary divorce is certainly not permitted. Matrimonial offences are punished by social degradation, which is an efficacious punishment to a community who value caste privileges more than their worldly possessions. It is, thus, not strictly correct to say that marriage is not recognised in the Marumakkathâyam system of family-life. It is recognised for social and ceremonial purposes, but not for the purpose of legal rights. I must however say that this conception of marriage as a socially-recognised institution can be predicated of only the orthodox form of marriage, which obtains in most parts of North Malabar, and a few Taluks of South Malabar.

I am free to admit that the fugitive connection known by the name "Sambandham" which prevails in some parts of South Malabar is not a marriage in the sense above described. It is undeniable that in some parts of South Malabar (especially in Walluvanad Taluk where the Nambûdiri influence is most felt) considerable laxity prevails in the matter of the marriage tie. A man takes a girl as his wife, one day, and the next day, a more favoured suitor comes upon the scene, and walks away with her. In such a case, conjugal fidelity is quite out of the question. This is, no doubt, a grave social evil and there can hardly be two opinions as regards the desirability of removing it—but at the same time it is to be remarked that this vicious custom is only a sectional aberration, locally limited in its operation. The endeavour of some of the educated men among the community, to bring about a reform is worthy of all praise; but it may well admit of a question whether the enactment of a permissive law is the best way effecting it. A permissive law is always an invidious law, and in the case of such a socio-domestic concern as marriage, it should not in my opinion be resorted to unless the necessity for it is clearly established. The removal by the state of a civil disability under which a whole community labours is no doubt justifiable under certain circumstances, but it may well be doubted whether it is expedient for the Legislature to frame an optional law to suit the convenience of a fraction of a community, who want to secede from the law which governs the rest of that community. A permissive law implies that the community as a whole is not willing to change the existing usage, because, if the community as a whole is ready for a change, the case is no longer one for optional legislation. If the community as a whole does not desire a change, the interference of the Legislature can be justified only on one of two grounds, either that those who desire a change form the great majority of the community, or that, in the opinion of the Legislature, the change proposed is calculated to promote the welfare of that community. In the present case I do not believe that the great majority of the Marumakkathâyam Hindoos are in favour of a change in the law of marriage. If then the Legislature interferes, it must be because the Government deems it fit in the interests of public welfare to legalize marriage among the Marumakkathâyam people. If such is the case I do not see why the benefit intended should not at once be conferred upon the whole community by positive legislation, instead of leaving it optional with each member of the community to avail himself of it as he likes. For the Government to frame a standard law of marriage and to leave it at the same time optional with the community concerned to adopt it or not, is inconsistent with the theory of state legislation. The Government, as the responsible guardian and protector of the subject population, is bound to see that a particular course of conduct, which it lays down for the improvement of a community, is observed by the whole community, and that its observance is not left to the individual opinion of each member of that community. A law of marriage is a matter of public policy, and as such, the expediency of leaving it to the tender mercy of each individual is, to say the least of it, questionable. The enactment of a permissive law as proposed, for Marumakkathâyam Hindus will result in a few members of that community following the new law while the great bulk of their kith and kin are governed by the Marumakkathâyam usage. We shall then witness the spectacle of some members of a Tarawâd following one law and some members of the same Tarawâd following quite a different law. In the words of a learned writer, the effect of this will be "to call into existence a set of amphibious beings who are at the same time members of two families." This will surely give rise to complications both social and legal, and will be the fruitful parent of dis-

cord and litigation between members of the same Tarawâd. For the foregoing reasons the enactment of a permissive law of marriage is, in my opinion, extremely undesirable.

2. If a marriage law is to be framed at all it must be a law affecting the Marumakkathâyam community as a whole. Then the question is whether the community as a whole is prepared for such a marriage law. The answer to this must depend upon what is the nature of the proposed law. If all that is intended is simply to accord a legal recognition to the tie of marriage as a civil contract, I do not think there will be much opposition to it. Among the better classes of society, there is at present such a conception of marriage, and to make it the basis of legislation, would be merely to give legal sanction to a state of things justified by orthodox practice. But if by legal marriage is meant a marriage such as is calculated to affect the law of inheritance, I do not think that the people as a body are prepared for it. It is extremely doubtful if such a marriage law is, in the present circumstances of the Malayâli community, either expedient or practicable. The Marumakkathâyam system of inheritance has been the governing law of the community since the foundation of society in Kêralam, and it has become so deeply ingrained in the habits, institutions, and family-life of the community, that it is a sheer impossibility for them to adopt, at a moment's notice, a different law. It may be said that Marumakkathâyam as a family law is opposed to western political conceptions; but it has yet to be shown that it is against the genius of the Malayâli community.

There is a fundamental difference between the occidental and oriental theory of social polity, and this is evident from the fact that while individual ownership has been the favoured theory in European jurisprudence, corporate ownership has been the governing rule of property in the East. If the history of social institutions teaches anything, it is that the family law of one community, however good it may be for that community, is not necessarily so in respect to another community, differently circumstanced. Differences of social ideas, climatic conditions, and hereditary instincts, are factors which cannot be ignored in practical legislation. The Malayali community has a distinct individuality of its own, which is the outcome of centuries of social experience, and it is an impossible task to make them divest themselves of it, all of a sudden, by a legislative enactment. The Marumakkathâyam system of family law is no doubt a deviation from the generally received notion that sonship is the natural basis of inheritance, but it is not, on that account, liable to be condemned. The view that "Makkathâyam" is the rule of succession ordained by nature, is not a universally-accepted view. According to the authority of Blackstone, the law of inheritance is not a natural but a political establishment and it is founded, not on any principle of nature, but on principles which have their origin in the exigency of human society. If this is so, it is clear that simply because the Marumakkathâyam system does not recognise sonship as the basis of inheritance it cannot be said to be an unnatural system. However this may be, it is undeniable that, as a family law, Marumakkathâyam has much to recommend it. It is a system of property law best calculated to augment and conserve property in each individual family, and thus to increase the material happiness of society composed of those individual families. To judge of it by its proved results, Marumakkathâyam exercises a beneficial influence upon the manners and morals of its followers. In consequence of the enduring nature of a Tarawâd and its effects on domestic conceptions, the love of home and country, which is instinctive in man, is better appreciated

among Marumakkathâyam people than among any other race. The Malayalis as a community have always been noted for their manliness, hospitality and domestic purity, and this will be evident to every one who reads the impartial accounts of Doctor Buchanan, Colonel Welsh* and other European observers of Malabar society. The possession of social virtues such as these cannot co-exist with a pernicious system of family-law, and this is sufficient to show that Marumakkathâyam is not such a barbarous law as it is thought to be by unenquiring critics. It is a system of family law eminently suited to the habits and sentiments of the community, whatever may be theoretical views of those that cannot realize its excellence. The expediency of changing such a law is, to say the least of it, questionable. Such a change cannot be effected without a social revolution. The practical difficulties in the way of so radical a departure are in the present circumstances of the Malayali community, simply insurmountable. We thus see that a change in the law of Marumakkathâyam is at present both inexpedient and impracticable. In other words the Marumakkathâyam as a family law of inheritance cannot, at present, be changed in favour of "Makkathâyam."

3. The question then is, can Makkathâyam succession be prescribed in case of self-acquired property? No doubt it is possible to prescribe such a rule of succession for self-acquired property, but in my opinion the desirability of it is open to serious doubt. To enact the Makkathâyam rule of succession for self-acquired property, while the Tarawad law of Marumakkathâyam inheritance is left unaffected will, I am afraid, be a discordant jumbling-up of two dissimilar systems of family-law. Under the Marumakkathâyam law the Tarawad member who makes the self-acquisition will retain his right to Tarawad property intact; while, under the Makkathâyam law which affects his individual property, his acquisitions will go to his children. This is clearly an unjust arrangement and offends against the principle of mutuality. The effect of this will be that the Tarawad will always lose and never gain. Instead of a member contributing for the Tarawad, the Tarawad will have to contribute for him with no thought of a recompense. This will give rise to family dissensions and mutual jealousy culminating in expensive law suits. The Tarawad system will be thrown out of gear, and a chaos of conflicting rights and ideas calculated to disturb the harmony of domestic life, will set in. Such being the case, I feel considerable misgivings as regards the expediency of enacting the Makkathâyam law of devolution for self-acquired property, side by side with the Marumakkathâyam Tarawad law. In my opinion, so long as it is not possible to change the Marumakkathâyam system as a whole, it is not sound policy to weaken its vitality by partial encroachments on it.

4. How then, it may be asked, is it possible to frame a marriage-law, without the incident of legal succession attached to it? The answer to this is not difficult. Marriage may be recognised by law in such a way as not to affect the law of property. The only question is one of a proper *modus vivendi*. Marriage, as a social institution, is meant for the purpose of regulating and protecting conjugal rights and for legalizing issue. Inheritance in the line of sons is not an invariable incident of a legal marriage. A qualified recognition of marriage as a source of inheritance is all that we see among many civilized societies. Absolute and exclusive succession to property by the children of a legal marriage is not the rule in many recognised systems of law. In support of this position I may refer to the Mahomedan Law and the law of the Succession Act. It is clear from this that the legalization of marriage

NOTE.—I have not succeeded in ascertaining what writer is here referred to.—H. M. W

need not involve, as a necessary consequence, a change for Makkathâyam in the Inheritance Law of property. Legal force may be imparted to the tie of marriage, and marital rights and obligations may be recognised by law, without directly affecting the question of inheritance. As I have already said there is no objection to this. Having regard to the laxity in sexual relations which obtains in some parts of the district, I think that a legal recognition of marriage for the purpose of regulating marital rights is a necessity. At the same time I am not prepared to advocate any interference with the law of inheritance, as I am convinced that such a step, under present circumstances, is both inexpedient and impracticable.

5. It may perhaps be objected to this view, that, to legalize marriage without annexing to it the incident of legal succession is an anomaly. The answer to this has already been stated by me. As I have shown above, there is no necessary connexion between marriage and inheritance. I do not deny that consistently with the enacting of a legal marriage a suitable provision must be made for the wife and children. Such a provision is, in practice, made by all those who follow the orthodox form of marriage. Among them the wife and children are maintained by the husband, and the husband, during his life time, gives them as much property as he can afford to give. This practice which prevails among the orthodox Nayars may be recognised by the Legislature. Towards this end the legalization of Wills will be an important step. If the form of orthodox marriage, which now exists among the true Nayars, is adopted by the Legislature as the standard form of marriage, and the matrimonial rights and duties attaching to it by custom are enacted as legal incidents flowing from it, and an obligation to maintain the wife and children is created in the husband, with a power to devise his self-acquired property by Will, I think a workable marriage-law suited to present requirements can be smoothly framed without evoking much opposition from the mass of the community. The legalization of Wills, will go a great way towards supplying the want of a Makkathâyam law of inheritance, and the wife will, by it, be sufficiently compensated for the loss of freedom implied in a legal marriage. When a man of average intelligence and refinement knows that unless he exercises his right of testamentary disposition in favour of his wife and children, they cannot claim his property after his death, there will be every inducement to him to devise his property to them by will, if he thinks that they are deserving of his bounty. The wife and children will, in such a case, be obedient and dutiful to him, and the fear of being omitted in his last Will and testament will be a sure guarantee for their good conduct.

6. The important question, then, is the mode in which a marriage law with the limited scope above pointed out is to be framed by the Legislature. As I have shown in my preliminary observations, whatever law is framed must be framed in such a way as to apply to the whole community. This can be effected by taking the more refined marriage form of the orthodox Nayars as the basis of legislation. Such marriage form flourishes in full vigour in North Malabar and it is there known by the name "Pudavamuri" of which the following is a brief description :—

When a man is to get married, his Karanavan and his father hold a consultation together and propose a bride for him. If he approves of their selection, the guardian and other relatives of the bride are applied to on the subject, and if they agree, a day is appointed to examine and compare the horoscopes of the bride and bride-groom. On the day so appointed, the guardian of the bride-groom with some

of his relatives and friends goes to the bride's house, and the horoscopes are examined there. If the horoscopes agree *i. e.*, if the conjunction of Planets is favourable, an auspicious day is selected for the performance of the marriage ceremony (Pudavamuri). On the day so appointed, the bride-groom, with his friends and relatives invited for the occasion, proceeds, in state, to the bride's house, and is received there by the master of the house with suitable honors. The bride-groom then gives Dakshina (money presents) to the Brahmans assembled, invoking their blessings upon the contemplated union, and at the hour appointed for the ceremony of marriage the bride-groom and his chosen friend enter the Padinyatta room (the sanctum sanctorum) of the house, and the bride is thereupon introduced into the room by her female relatives. The real ceremony of marriage then takes place, and this consists in the bride-groom handing to the bride a number of clothes (Pudava). This over, a sumptuous banquet is held in honour of the occasion, and marriage presents are bestowed. Early in the morning of the next day the bride-groom returns to his house where, in due course, the bride is taken by his female members with all the pomp and ceremony which characterized the marriage. Forms of marriage similar to this, known by different names in different localities, exist in parts of South Malabar also. The ceremonial of marriage, as above described, is a public and solemn ceremonial and there is no reason why it should not suffice for the creation of the marital tie. It may be objected to this that such a purely domestic ceremonial cannot furnish indefeasible evidence, in cases where the marriage is disputed in a court of law, and that, therefore, a statutory mode of securing such evidence should be prescribed. I do not feel the force of this objection. The Hindus and Muhamadens effect marriages among them according to their own particular forms and ceremonies and no statutory mode of securing evidence of such marriages is in existence among them. If this is so among two of the most important communities living under British Law, I do not see why a like concession should not be allowed to the small community of Marumakkathayam people. It is a well-known fact that among the Hindus, the forms and ceremonies of marriage vary in different castes, and that even in the same caste they are not uniform. Though such is the case, the Legislature has never thought of introducing registration of marriage among them, and they do well enough without it. Notwithstanding the absence of a statutory mode of evidence, they are able to prove their marriage, when disputed, before Courts, and I do not see why the Marumakkathayam people should not be able to do likewise. All that is necessary is that there should be some recognised form for the formation of marriage and for the dissolution of it. Resort to a public tribunal is not a "sine-quâ-non." The orthodox classes of Marumakkathayam Nâyars have a recognised form for marriage and it may well be adopted as the basis of Legislation. It may be then declared that marriages contracted according to that standard form will be recognised by law for the purpose of vesting in the husband and wife, reciprocal rights and duties, *juremarito*, and for the purpose of giving to the wife and children a right to get maintenance from the self-acquired property of the husband. If with this, a power to devise property by Will is also given to the husband, the wife and children can reckon upon getting a fair share of his property. Legislative interference to this extent is in my opinion not only justifiable, but is also desirable. But beyond this, in my humble judgment, the Legislature cannot now usefully interfere, having regard to the state of public feeling and sentiment on the subject. So much change as is indicated above is justified by the practice which at present obtains among the better classes of society, and can hardly be considered a violent innovation; but any attempt to change the law of inheritance will

be regarded by the general mass of the community as an act of spoliation, a high-handed interference with their dearly-cherished usages and institutions.

7. To the first question my answer accordingly is that, while I deprecate all interference at present with the Marumakkathâyam Law, I am in favour of the Legislature legalizing marriage, in the manner and for the purposes, set out in the preceding para.

8. To the second question, my answer is emphatically in the affirmative. I am of opinion that legalization of Wills among the Malayâlis is a desirable measure. No doubt, it is a deviation from the strict theory of Marumakkathâyam Law, but the demand of modern civilization as well as the requirements of the great majority of the people render the measure imperatively necessary. The necessity for it will be more pronounced if, as proposed, marriage is made legal among the Marumakkathâyam people. There is no denying the fact that a protest against the present law, in this respect, has been long going on in the minds of all educated men of Malabar. In the Hindu Law, Wills were recognized by Judicial decision, after a long struggle for existence, but under Malabar Law, which is a more inflexible law than the Hindu Law, that recognition has not yet been given by the Courts, though the tendency of a recent decision of the High Court is in favour of it. The relief which the courts cannot afford, the Legislature is justified in giving, as a concession to public opinion and as a measure of public policy. Many a man who wants to give a fair share of his property to his wife and children is deterred from making a present gift of it to them by the fear of their proving false to him in after-life. If he is given a power of disposing of his property in such a way as to take effect after his death, he will welcome such a concession with open arms. The absence of such a power under the existing law proves fatal to a man's disposition to be just and generous to those whom nature places in the forefront of his affection. The removal of this disability will be a boon of unquestionable good to the community and I am therefore wholly in favour of it.

I beg to remain,

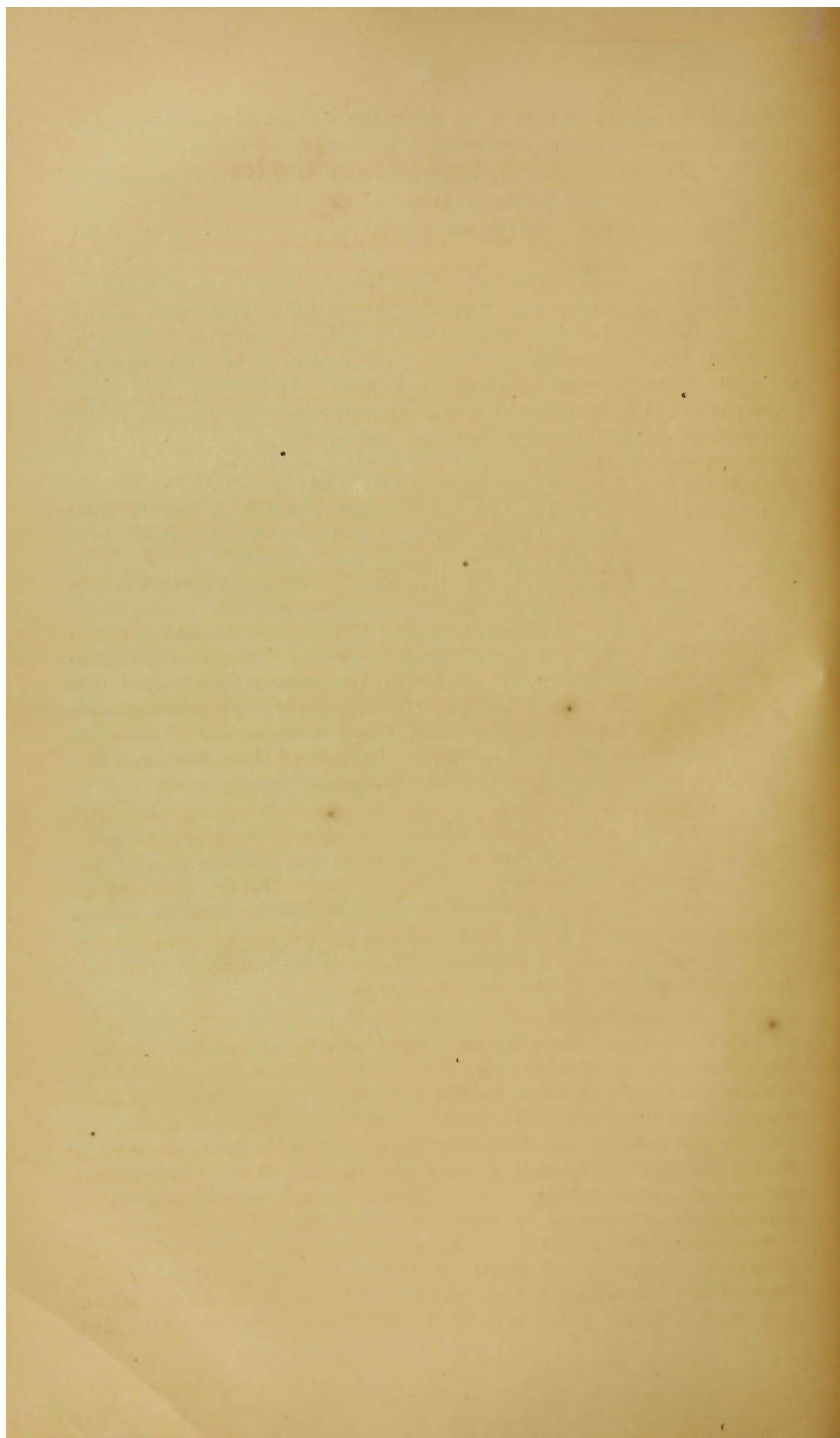
Sir,

Your most obedient and humble servant,

(Signed) P. V. ANANTAN NAYAR,

District Munsif,

Calicut.



Answers to Interrogatories

BY

M. R. RY. T. V. ANANTAN NAYAR AVARGAL, B.A. B.L.,

District Munsiff,

1. Yes.

2. No.

3. The rule is that a man belonging to one division cannot marry a woman belonging to a higher division. A woman of one division can be married by a man of a higher division. A man of the Kiriyaṁ (കിരിയം) division can marry a woman of the Chârna (ചാർന്ന) division, but not *vice versa*. The 'Kiriyaṁ' division is superior to the 'Chârna' division in point of caste, and according to the rule aforesaid, marriage between a 'Kiriyaṁ' female and a 'Chârna' Nayar is not permitted. Matrimonial connexion is not allowed between Sudra (ശൂദ്ര) and Chârna (ചാർന്ന) Nayars. Each of the two divisions thinks that it is superior in caste to the other, though theoretically there is not much distinction between the two.

4. Yes, they incur social penalty. In North Malabar the penalty is rigorously exacted. The offending man or woman is excluded from caste-association and is denied all caste-privileges. Their Tarawâd too is socially boycotted, and their Enangans (എണങ്ങൻ) and fellow-caste-men refuse to associate with them on occasions of auspicious and inauspicious ceremonies. Where the delinquency is grave, the parties concerned are interdicted from tank and temple by order of the local Raja who is supposed to be the censor of public morals.

5. Prâyaschitham (Expiatory ceremony) cannot validate a marriage contracted in violation of recognised custom; but it may remove the taint brought upon a Tarawâd by such a marriage. Generally, the expiation in such cases takes the form of a fine imposed on the offender by the tribunal of caste-assembly. This is known by the name Ardhadannam (അർദ്ധദാന്നം) in North Malabar. Another mode of expiation is the ceremony called Shudhabojanam (ശുദ്ധബോജനം). These expiatory ceremonies can, however, only restore the offending person to caste, but cannot validate the Sambandham, contracted in violation of caste-usage.

6. Korapuzha.

7. Among high class Nayars, Sambandham is not permitted between a Nayar woman of North Malabar and a Nayar man of South Malabar; but between a Nayar man of North Malabar and a Nayar woman of South Malabar, "Sambandham" is permitted and is widely prevalent. The Nayars of North Malabar are more orthodox and more keen about their caste-privileges than the Nayars of South Malabar and their family-pride is, as a rule, greater. They do not therefore give their females in marriage to South Malabar men, but South Malabar Nayars have no objection to give their females in marriage to North Malabar men. Owing to the operation of the rule which prohibits a North Malabar Nayar woman from going to the South of the Korapuzha, North Malabar men employed as officials in South Malabar are obliged to form 'Sambandham' with South Malabar women. Very many instances of this can be cited. The effect is prejudicial to the intel-

lectual growth of North Malabar in so far as the best men of North Malabar transmit their qualities to their progeny in South Malabar.

8. No. The reason is that stated in the answer to the preceeding question.

9. No.

10. The prohibition is founded upon a blind custom which is as absurd as it is unsuited to the requirements of the present day. In former times, when internecine warfare between chieftains of North and South Malabar, was the rule, there was perhaps, some meaning in this restriction, but at the present day there is no justification for it. Tradition has it that South Malabar women are descended from a race of Deva-Strîs, (1) (ദേവസ്ത്രീ) whereas the North Malabar women are supposed to have descended from the race of Asura-Strîs (2) (അസുരസ്ത്രീ). This view is no doubt an allegorical fiction, but it accounts for the origin of the rule of prohibition aforesaid. It is a well-known fact that Deva-Strîs (ദേവസ്ത്രീ) called 'Upsaras' are noted for their freedom in sexual relations, while the Asura-Strîs (അസുരസ്ത്രീ) are the very embodiment of sexual purity. Owing to this conception, the Nayars of North Malabar thought it *'infra dig'* to allow their females to have free association with the females of South Malabar, and in course of time, this became a regular canon of their sociology. It is satisfactory to find that this prohibition is fast losing its hold on the public mind. There are instances in recent times, of North Malabar Nayars having taken their family to South Malabar, in disregard of this prohibition. Necessity compels them to break through this rule of "immiscibility". As social intercourse between the two parts of the District becomes more and more close, this prohibition must of necessity become less and less vital, and there is every reason to think that in the course of a few years more, this prohibition will be a thing of the past.

11. Tâli-kettu kalyânam is the symbolical marriage of a girl in a Marumakkathâyam household. Among the Hindu-law people the "Tâli-kettu" ceremony takes place 'pari passu' with the real marriage, but among the Nayars, it merely marks the period at which a girl attains her marriageable status. The "Tâli" is the symbol of hymeneal capacity and the 'Tâli-kettu kalyânam' is a religious sacrament prescribed for every Nayar girl before she can enter the order of a "Grahini" (ഗ്രാഹിണി). There are various minor ceremonies such as Manthrakkodi churakkal, (മന്ത്രക്കോടി ചുരക്കൽ), and Kâppu kettuka (കാപ്പു കെട്ടുക) in connection with the "Tâli-kettu kalyânam."

12. The custom as to Tâli-tying is different in different parts of Malabar. In North Malabar, among the high class Nayars, the Tâli is tied, generally, by a Nambûdiri Brahman, or Embrândiri. Among the lower orders of people in North Malabar, the Tâli is tied by a class of inferior Nambûdiris. The Nayars of a particular locality called 'Neriyôtt swarûpam' observe the custom of 'Tâli-tying' by the mother of the girl. In South Malabar, an 'Enangan' (എണങ്ങൻ) does the business. In cases in which an 'Enangan' is not available, the mother of the girl does it. In some castes a Tirumulpâd is made to tie the Tâli. In cases in which an 'Enangan' ties the Tâli he is called by the name 'Manavâlan'.

13. In South Malabar, the practice of performing the Tâli-kettu kalyânam for a number of girls together, is very common—but in North Malabar it is rare,

NOTE.—(1) Dêva-strî=a celestial female.

(2) Asura-strî—Dr. Gündert defines "Asuran" as a demon, or fiend. The 'Asura-strî' is a superhuman female of some sort.—H. M. W.

The custom of one and the same man tying the 'Tâli' to all the girls is not in vogue generally, but in poor families it occasionally obtains. The approved usage of the Nayars is against this practice.

14. No. Because the mere fact of tying the 'Tâli' does not render him the bride-groom, in point of actuality. As I have already said, the Tâli tying ceremony among Nayars is merely a religious sacrament meant for denoting a particular stage in the family-life of the girl, and does not amount to actual marriage, which is a separate transaction altogether. That the Tâli-tying ceremony cannot be confounded with actual marriage is too clear to need any lengthy remarks.

15. There is no objection to the man who ties the 'Tâli', to form Sambandham with the girl afterwards, if in other respects, the match is suitable.

16. I do not happen to personally remember an instance of this, though my information is decidedly in support of the above proposition.

17. In some places in South Malabar, where the Manavâlan who tied the Tâli dies, the girl is expected to undergo pollution for 15 days; but of late, this practice has well nigh fallen into desuetude. In North Malabar, there is no trace of such a custom at all.

18. Yes. (Vide the answer to question No. 12.)

19. Yes, because it is considered to be a religious impurity for the girl to attain puberty before the Tâli-kettu kalyânam is performed. This is founded upon the principles of the Hindu Law of Achâram (ceremonial) and is not merely the outcome of an unmeaning custom.

20. Marriage in the conventional sense must take place before a girl, for whom the Tâli-kettu kalyânam has been performed, can consort with a man in the character of his wife.

21. The formalities preliminary to, and following, the marriage are slightly different, but there is no essential difference in the mode in which the marriage celebration takes place.

22. No. There is considerable difference. In North Malabar, there is a recognised form of 'Sambandham' called "Putavamuri", with a good many incidents suggestive of a legal marriage—but in some parts of South Malabar, there is no recognised form in practice. Even the ceremony of "cloth-giving" is not universally followed in South Malabar. Throughout North Malabar, the formalities attending a 'Sambandham' are the same: but in South Malabar there are local variations in the mode in which "Sambandham is effected.

23. According to orthodox conceptions, it is not permissible for a woman to have more than one husband at a time. In North Malabar, this rule is very strictly observed, and instances of departure from it cannot possibly be found, but the same cannot be said of South Malabar. There is a tradition that some years ago there flourished in Walluvanâd Taluk a woman who had the rare distinction of possessing 28 Sambandhakârans at one and the same time. Such a state of things is now-a-days not tolerated even in that notorious Taluk. All that we can now find, even in localities which are not over-strict in the matter of sexual morality, is the rule of 'one Sambandhakâran at a time,' publicly avowed as such, with possibly a certain number of special paramours on whom the woman secretly bestows her favours. In the case of South Malabar women, who are kept by Nambûdiri Brahmans, this practice of illicit consorting is largely prevalent. The Nambûdiri keeper himself

very often takes a pride in seeing the woman excelling in her love intrigues, and not unfrequently, he makes a trade of her accomplishments. Such a practice is abhorred and detested in North Malabar.

24. The social feelings of orthodox Nayars prohibit polyandry. The prohibition does not depend upon any written Text of Law; but is to be founded in the moral consciousness of all right-minded Nayars.

25. She can, in South Malabar, but not in North Malabar. In South Malabar, women have, as a rule, much freedom in the choice as well as the divorce, of their "Sambandhakâran". The males in the family do not generally interfere with the exercise of this freedom so long as it does not produce a domestic scandal. But in North Malabar, the females are held in strict subjection by the male members of the Tarawâd, and have no voice of their own in the matter of selecting or rejecting their husbands. The position of a North Malabar woman in this respect is very much the same as that of a Hindu woman under the strict doctrines of Hindu Law regarding female dependence. In North Malabar, a woman cannot terminate her Sambandham except with the express consent of the Kâranavan of the Tarawâd, and such consent will not be given except on very clear and cogent grounds. Arbitrary divorce is, in North Malabar, regarded as degrading and disgraceful, and it will be difficult to find instances of it.

26. In North Malabar, there is in theory, a regular formality for the dissolution of a 'Sambandham.' The formality consists in the husband's going to the wife's house in the company of a few friends, with two pieces of cloths (രണ്ടിഞ്ചവസ്ത്രം) and some bundles of betel leaves. The two pieces of cloths must be thrown on the woman's cot in the presence of her relatives, and the betel leaves must be distributed to the elder members of the household. This done, the man must say that thenceforth the Sambandham is at an end, and go from the house without taking his meals there. When this is done, the Sambandham is dissolved. I am not aware of any such practice among South Malabar Nayars, among whom no particular formality is, I believe, observed on the dissolution of a 'Sambandham.'

27. No. This is not tolerated among the better class of Nayar society. According to the strict view prevailing in North Malabar, a man can have only one 'Sambandham' at a time. The instances in which this rule may be found infringed in practice are cases of fugitive connections by way of concubinage.

28. There is no penal law which prevents a Nayar from having more than one Sambandham at a time, but such a course is reprobated by the social opinion of the orthodox classes of society.

29. During the continuance of the 'Sambandham', women in North Malabar invariably live in the Tarawâd of their husbands and are supported there by the Kâranavan of the Tarawâd. The woman takes her meals in the company of the females of that Tarawâd and becomes, as it were, part and parcel of her husband's house-hold. The permanent home is the home of her husband and she visits her Tarawâd only on occasions of special family-ceremonies and the like.

30. In South Malabar, the reverse is the rule, though instances pointing to a different tendency are occasionally to be met with. Generally, a South Malabar Nayar lady lives in her own house and is there visited by her 'Sambandhakâran.' She takes her meals and sleeps in her own house, subject of course, to arrangements made by the latter. Among the official classes of Nâyars in South Malabar, necessity

compels married ladies to live in the house of their husbands who, in the majority of cases, live apart from their Tarawâd on account of their official business. This is a departure from the ordinary practice which prevails in South Malabar.

31. Yes; it is considered a great disgrace to a man to fail in this duty; oil, clothes, paddy and pocket-money are the things which he is bound to provide for them, according to the position and means. In North Malabar, the Tarawâd of the man must defray these expenses if the man has no income of his own.

32. In North Malabar, it is certainly not the custom to change the Sambandham frequently. A man who takes into his head to indulge in this obnoxious pastime will be visited with condign social punishment by the powerful tribunal of his caste. In South Malabar also, frequent change of Sambandham is not the rule among the better classes of society. Indeed, when a man feels happy with one Sambandham, he never thinks of forming another Sambandham, merely for the sake of novelty. The consciousness of having the required liberty keeps him disinclined to exercise it unless when forced to do so by the circumstances of his matrimonial life.

33. Yes, he does feed and clothe them. Nothing is a greater disgrace to a married Nâyâr female than to be obliged to have recourse to her Tarawâd, for such things, during the continuance of the Sambandham.

34. This depends upon circumstances, and no hard-and-fast rule exists on the point. In some cases the Anandaravan who works for the Tarawâd is given a special allowance by the Kâranavan in consideration of his so doing, and in some cases he gets no more than his bare maintenance in the Tarawâd. Anandaravans very often assist their Kâranavan in the cultivation of Tarawâd lands. In some cases, especially among the aristocratic Nâyâr jenmis of North Malabar, Anandaravans are put in charge of separate estates (chêrigal) belonging to the Tarawâd. They manage those estates and render accounts to the Kâranavan. Out of the estate-income, they are allowed, in such cases, to take a fair share for their comfortable sustenance.

35. In North Malabar, Anandaravans generally work for their Tarawâd. Those Anandaravans who are well affected towards their Tarawâd exert themselves to add to the prosperity of the Tarawâd; but those who live in discord with their kith and kin, try to feather their own nests.

36. Generally, an Anandaravan who makes earnings by his own individual exertions keeps them in his own hands, and on his death those earnings lapse to his Tarawâd. There are also cases in which during his life-time he incorporates his earnings with the Tarawâd property. Such cases are more frequent in North than in South Malabar. Where the wife and children of such an Anandaravan live in his Tarawâd, their maintenance is defrayed by the Tarawâd, and he has not to contribute anything towards such maintenance. But very often he gives to his wife and children a fair share of his earnings. In South Malabar, the greater part of a man's self-acquisition goes, as a matter of fact, to his wife and children.

37. Yes, there is such a thing as 'Puthrâvakâsam' in North Malabar. According to the social usage of North Malabar, there is a moral obligation in the father to provide for his children. A man who has property of his own is bound, in honor, to give to his wife and children so much out of it as is sufficient to keep them above want. The wife must, in any event, be given property sufficient for her actual maintenance till her death. This obligation is fully recognised in North Malabar among all divisions of well-to-do Nâyars. There are, in fact, instances of Anandaravans of

the man having, on his death, given away property to his wife and children, in consideration of this obligation. The practice of "Putrâvakâsam" donation, which, to a great extent, mollifies the unbending rigour of Marumakkathâyam Law, is a fair indication that in North Malabar, 'sonship' is well recognised. I do not think there is any practice analogous to this in South Malabar.

38. There are various objections to enacting a permissive Marriage Law for Nâyars. In my communication dated the 22nd April, I have set out in detail some of the more serious objections to it. I do not think it necessary to go over the same ground again. In my opinion, if a new law is to be enacted at all, it must be so framed as to apply to the whole Marumakkathâyam community and not merely to an infinitesimal fraction of it.

39. If legal sanction is to be accorded to marriage, I should certainly prefer to retain the customary form, and to make such improvement upon it as is sufficient to secure indefeasible evidence of it. In my opinion a marriagesolemnization under the auspices of a Registrar and 3 witnesses will be a very poor substitute for the customary form recognised in practice. Despite the hyper-critical notions of theorists a Malabar marriage has an element of religion about it, and is not merely a civil bargain, wholly depending for its efficacy upon a bare declaration of will. Rites and solemnities appropriate to its religious character cannot therefore be dissociated from it so long as the Marumakkathâyam people are "Hindus." A form of marriage fashioned on the Legislative anvil, with adjuncts wholly foreign to the religious and domestic conceptions of the people, can never do duty for the customary formalities now in vogue. The intervention of a Registrar in such a socio-domestic ceremony as marriage will be felt by the orthodox portion of the public as a violent interference with the privacy of their family-life. It will be intolerable to them, and they will not be slow to put out of caste those who follow this exotic form of marriage. I am of opinion that the proposed substitutionary form of marriage is unsuited to the habits and sentiments of the Malayâlis, and is opposed to the custom of the country. The best course appears to me to uphold the existing forms, so far as they go, and to supplement them, where they are defective, by a temperate application of the principle of analogical selection.

40. There are points of difference, and they are the following :—

(1) According to existing practice, a man who has a wife living is permitted, under certain circumstances, to contract a second marriage, whereas the proposed measure makes this altogether illegal. Even under the Hindu Law, it is permissible for a man to take a second wife when the first wife becomes barren or bears only female issue. The Marumakkathâyam people are certainly "Hindus," and the Hindu-Law doctrine of salvation from "Put" by a son is applicable to them. This being so, the prohibition to take a second wife under any circumstances during the lifetime of the first wife is opposed to the principle of the religious law which governs the Marumakkathâyam people. It is also to be remarked that in localities where the female population predominates, the rule which restricts a man to one wife will have the effect of leaving a good many marriageable girls without husbands.

(2) The proposed rule of prohibition relating to consanguinity and affinity is not in consonance with the accepted canons of matrimonial usage now in vogue. The prohibition falls far short of the existing practice.

(3) The provision that consanguinity or affinity alone shall be recognized as a valid bar to marriage is revolutionary in its character. It demolishes all distinction

between caste and caste. A man of the Pariah caste can, under it, aspire to the hand of a Nayar lady, and a union formed between them will be recognized as a State-approved marriage !!! I think this principle of legislation is far in advance of the times, and likely to produce quite a consternation among the people. For the foregoing reasons I would omit altogether the Provisoes 1 and 2, and substitute in place of clause (1), a provision rendering it legal for a Marumakkathâyam man to marry a second wife in every case in which such a marriage is sanctioned by the Hindu Law.

42. Adultery, habitual incontinence, desertion, cruelty, and loss of caste, are recognized as reasonable grounds for the dissolution of a Sambandham.

43. In North Malabar, the wife and children, as a rule, live in the Tarawâd of the husband and are there maintained by the Kâranavan of the Tarawâd. In rare cases, where the wife and children live in their own Tarawâd, the Kâranavan of the husband gives the wife the expenses of raiment and oil, her Tarawâd defraying the expenses of her meals. The husband, of course, gives her and the children the necessary funds for their comfortable living, in addition to the allotment made by his Kâranavan. In South Malabar, where generally the wife and children live in their own Tarawâd, the husband has to give them only the expenses of raiment, oil and such other things. The cost of their meals is defrayed by their own Tarawâd so long as they live there. When the wife and children have no Tarawâd property, the duty of maintaining them is wholly on the husband. When they live with him he, of course, attends to all their wants.

44. Clauses (a) (b) and (c) are fair enough, as the provisions which they lay down are the necessary adjuncts of a legal marriage. No reasonable exception can be taken to them. But clause (d) which enacts Makkathâyam succession to self-acquired property is a violent departure from the present practice of the community. In my opinion, the people as a body are not prepared for so radical a change in the law of inheritance. The expediency of enacting it even as a permissive law, while the public sense is against it, is to my mind, questionable. The evils which such a piebald system of family-law is calculated to give rise to in practice, have been pointed out by me in my communication dated the 22nd April and I don't think it necessary to recapitulate them here. As observed by me there, the utmost change that can now be effected without producing a social revolution is to legalize marriage, annexing to it rights and obligations '*jure-marito*', to declare Wills valid, and to provide a right of manitenance to the wife and children from the self-acquired property of the husband. The change in the law of inheritance contemplated by clause (d) is, under present circumstances, as inexpedient as it is impracticable. This clause may therefore be well eliminated. There is no harm in the other clauses so far as they go, but they do not go far enough. When marriage is legalized, the marital incidents flowing from it must be definitely laid down. There must be positive provisions, in regard to the right of society and cohabitation between the husband and wife, *inter se*. The want of a clear, statutory declaration on these points will be productive of all the glorious uncertainty of matrimonial law which the recent "Jackson case" in England has disclosed to an astonished public. I would therefore suggest an enlargement of this section by the addition of suitable rules in regard to the connubial incidents of the proposed marriage.

45. In recent times, a vigorous social intercourse has sprung up between the Nâyars of British Malabar and those living in Cochin and Travancore. There are many Nâyars of Malabar employed as officials in those two Native States, and there

are some Nâyars of Cochin, employed in British Malabar. There is thus every opportunity for Sambandham between the Nâyars of British Malabar and those who live in Cochin and Travancore, and such opportunities are seldom missed. Indeed, that classic ground of feminine accomplishments, Trichur, which is situated in the Native state of Cochin has always been a flourishing matrimonial market for the 'elite' of British Malabar Nâyars. Unless therefore the proposed statutory law of marriage is made a personal law applicable to all Marumakkathâyam Hindus, irrespective of their domicile, a plentiful crop of international difficulties will be the sure outcome of it.

(Signed) T. V. ANANTAN NAYAR,

District Munsiff of Shernad,

BALIAPATAM

North Malabar,

13th May, 1891.

MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. MANJERI KÂRANAMULPÂD, AVARGAL,
STANI AND LAND-LORD,

MANJERI.

11. Among the Marumakkathâyam Hindus tâlikettu takes the place of the rite of marriage among the Brahmins. The Sudras were brought into Malabar in the early days by the sage Parasu Rama, the creator of Malabar for the purpose of serving the Brahmins. For these Sudras Parasu Rama ordained Marumakkathâyam, or succession through the female. Subsequently Sankarâchâriar laid down the caste rules for the several divisions of Sudras, and assigned to them certain functions according to their caste. At the same time it was also laid down that if the man who ties the *tâli* is unwilling to form Sambandham with that woman, any other man is allowed to do so, in accordance with the caste rules as shown in the answer to question 20.

12. Tâli tying ceremony is performed as follows:—

<i>Divisions.</i>	<i>By whom tâli tying is done.</i>
(1) For Kshatriyas	Brahmins.
(2) „ Sâmandhans	Kshatriyas.
(3) „ Kiriya	By one in the same division, or by a Sâmandhan.
(4) „ Sudras	By one in the same division.
(5) „ Chânnata	Do. or by one of the Kiriya Division, or by a Sâmandhan.
(6) „ Lower Divisions	By one in the same Division.

It is never the custom to have the *tâli* tied in any one of the said divisions by one of an inferior division. It must be done by one of the same, or of a higher division. Among Nayers when the *tâli* is tied by one of the same class he is called *manavâlan* for the occasion.

13. Yes. There are *Sruthis*, *Smrithis* and *Purânas* in support of the practice of one man tying the *tâli* for more than one girl. But amongst the Nayers when a man of the same division performs this ceremony, he can only tie the *tâli* for one girl at a time. A Sâmandhan usually ties the *tâli* for more than one girl at a time.

14. Yes.

15. The same as answer to question 14.

16. There are several instances.

17. If the *tâli*-tying ceremony is done by one other than a Sâmandha, the woman observes pollution on his death.

18. No.

19. Yes. The Sastras say that the tâli-tying ceremony of the girl must be over before she attains puberty.

20. Ceremonies are required if the man is not the one who tied the tâli. Generally for this an auspicious day is fixed by the tarawâd people of both the man and woman in consultation with their respective relations, and on the night of the day thus fixed gifts are made to the Brahmins, and A (the man) takes B (the woman) to wife. In North Malabar after the distribution of gifts on the day fixed for the formation of Sambandham, there is also the practice of giving the woman a number of cloths by the man. Hence the ceremony there goes by the name of Pudamuri (cutting of cloths).

21. Yes, with this exception that he does not take his meals in the wife's house.

22. They must be somewhat alike, as shown in answer to question 20.

23. No.

24. Answers to question 23 suffices.

25. Cannot be done without the consent of their tarawâd people and of their caste-people.

26. Nothing further is necessary than mutual intimation of the matter with the consent of the tarawâd people, and relations concerned.

27. Yes.

28. Same as answer to the 27th question.

29. She may either remain in her own house, or in her husband's house.

30. Must be alike.

31. In case the wife remains in her husband's house during the continuance of the Sambandham the husband pays for all her wants, but if she remains in her own house, the husband has only to see that she is supplied with oil and cloth and that any special expenses on her account are also met.

32. It is not the custom to dissolve Sambandham often. Want of agreement between husband and wife, or other causes, may necessitate a dissolution. There are instances in which man and woman remain as husband and wife for life.

33. Given, during the time she is under his control.

34. Kâranavan looks after and maintain the Anandaravars. It is not customary for Anandaravars to hold tarawâd lands on rent. Where such custom exists, there is nothing to prevent the Anandaravan from making use of the surplus as he likes after paying the rent.

35. Well-behaved Anandaravars always work for the welfare of the tarawâd in obedience to the orders of the Kâranavan.

36. Both customs are found to exist; but well-behaved Anandaravars make over their earnings to their Kâranavan, and obtain from him whatever they require.

37. There is nothing known as *Putrâvakâsam* in South Malabar. I do not know if there is any such thing in North Malabar.

38. It is objectionable. Marumakkathâyam was introduced into Malabar by the great Parasu Râma, the creator of Malabar, and many eminent personages since have submitted to the system without making any change, and no innovation can now be permitted. This must have been based upon Sastras. But I have not been able to quote from them. Over and above this:—

(1) A permissive law has not been heard of until now *i.e.* a law which makes it optional for some people of one caste to do a certain thing, and for others to omit to do it. All the laws hitherto passed have always had application to particular peoples, or tracts, but not to portions of the same class.

(2) The Bill sets forth that its provisions will not bind all Nayars, but only those who choose to act in accordance with it. I think that a permissive law is unnecessary.

(3) All legislation must be compulsory in its operation.

(4) As marriages among Nayars and other like classes, and the observances connected with them, agree in essentials and do not differ, any improvement which the present time demands should be regulated by a law which is binding on all alike.

(5) That people of the same caste should be allowed to do just as they like in matters of importance connected with caste observances would be pernicious and fruitful of dissensions.

(6) It is very natural to apprehend under the circumstances that there will be at one and the same time in a Nayar tarâwad members who follow the new system and those who follow the old.

(7) The Honorable member who introduced this Bill before the Legislative Council must have done so with the object of raising the moral tone of the Nayar females by removing polyandry, and enforcing chastity among them; of giving children the honor of being born in wedlock; and of investing them with the right of inheriting the father's property.

(8) If such is the aim of the Honorable Member of the Bill, the law must be made compulsory and any violation of it must be made penal.

(9) When a law is made for any one class of people, it must be done after due consideration of the question as affecting the whole class, and then passed so as to bind the whole of that class.

(10) The introduction of this Bill is opposed to the Queen's Proclamation of 1858, declaring religious neutrality.

(11) This Bill has for its object the repudiation of a uniform custom of marriage observed by Nayars from time out of mind, and the introduction of a new system, which binds only those that care for it.

(12) It is certainly objectionable that there should be a law authorising people of the same caste to do a particular thing in two different ways.

39. Vide answer to question 38.*

40. The conditions differ. As the custom now is, there is nothing to prevent one who has one wife already from having another wife. The *Sastras* sanction this. It is not compulsory now, for the purpose of marriage, that the man should be 18 years of age and the woman 14. If it is made binding that the girl can be married only on her attaining the 14th year, it is very probable that by this time the girl will have attained puberty, and the marriage after this is of course opposed to all *Sastras*. Even in case the man and woman are 21 years of age, I am of opinion that it is highly essential that the matrimonial ceremony should be celebrated with the consent of the *Kâranavars* concerned. If marriages are conducted as set forth in provisoes (1) and (2) that will be quite against the practice now obtaining.

41. Vide answer to question 38.

42. Want of harmony between the couple, adultery &c.

43. It depends upon the husband's will and pleasure.

44. To introduce a law of marriage among Marumakkathâyam Hindus will be (as shown in my answer to question 38) quite opposed to the present custom and all Sastras on the subject, and untold misery and calamity among them will be its necessary out-come.

At present therefore I refrain from giving any opinion as to what the nature of the inheritance should be under the proposed law.

45. Yes.

(Signed). MANJERI KĀRANAMULPĀD,

[True translation as near as may be].

H. M. WINTERBOTHAM,

Collector on Special duty.

EXTRACT FROM
ANSWERS TO INTERROGATORIES
BY
M. R. RY. KUTHIRAVATTATH NAYAR AVARGAL,
NAYAR LAND-LORD WITH EXTENSIVE POSSESSIONS
IN THE PALGHAT TALUK.

11. Tali kettu is a rite which converts a *kanyaga* (maiden) into a *strî* (woman).

23. There is such a practice.

24. I have heard there is a Pramânam (in support of the practice). I have not looked for it.

25. She can.

26. There is no formality.

38. It is objectionable because it will cause uncertainty as to death pollution, and because the nephew is the heir.

44. (a) The husband cannot be guardian.

(b) The wife has no right to maintenance from the husband.

(d) The husband and wife have no claim on each others property. If one of them dies, his or her property should lapse to the Tarawâd and not in any other way.

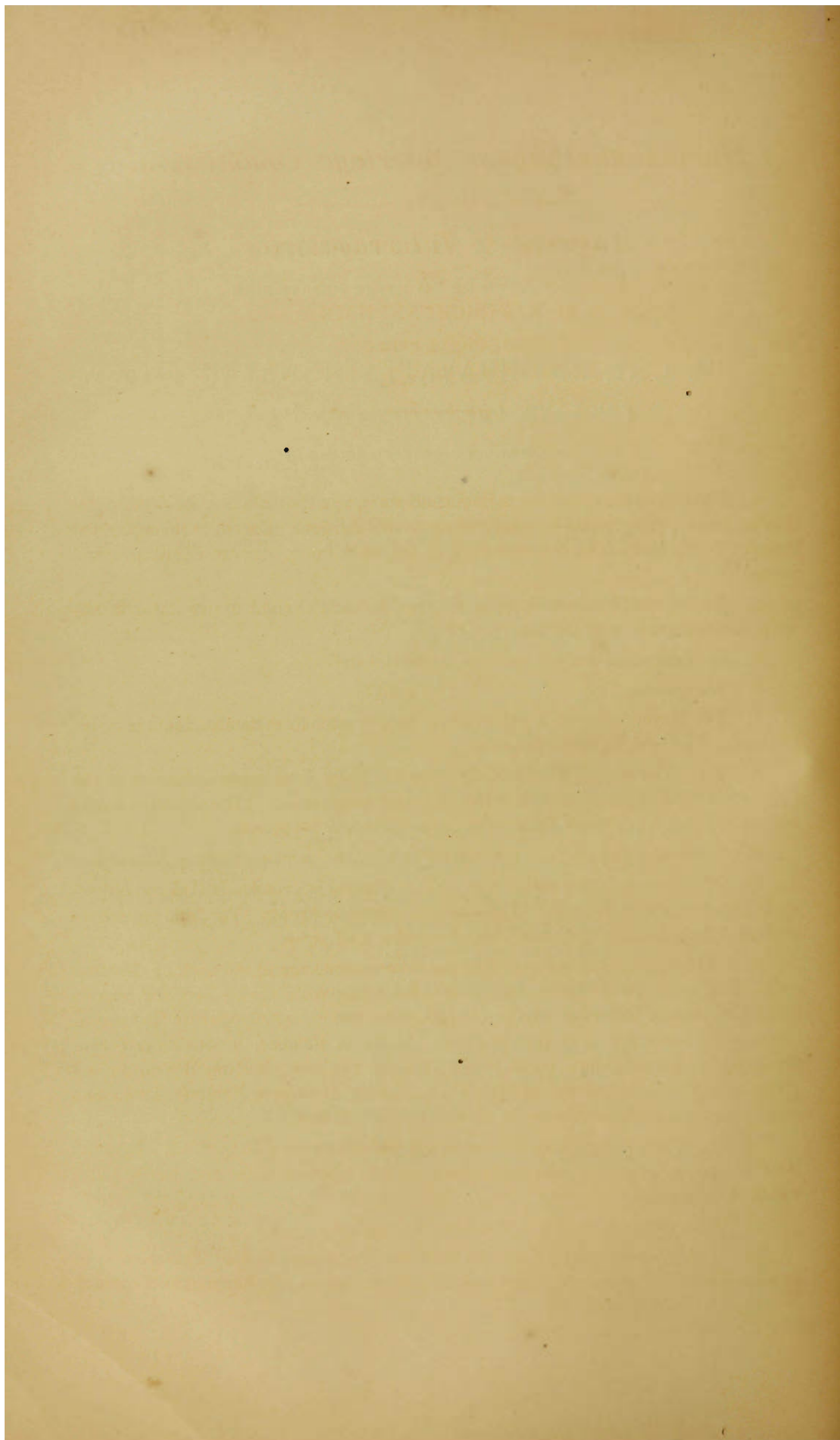
(e) The wife and children have no ground for claiming property from the father.

(f) Property obtained by inheritance ought to belong to the Tarawâd and cannot be self-acquired.

(Signed). KUTHIRAVATTATH NAYAR.

True translation as near as may be.

H. M. WINTERBOTHAM,
Collector on Special Duty.



Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. K. IMBICHUNNI NAIR AVARGAL,

FIRST GRADE PLEADER,

TELLICHERRY.

1. Yes.

2. No.

3. The invariable rule so far as Sambandham is, that the male must be either equal to or superior to the female in caste and caste sub-division. Except in some parts of Ponnani Taluk, there is no intermarriage so far as I know between Charnathu and Sudra.

4. To the women, there is social disgrace and loss of right to live in the family house and to mingle with the family.

5. No Prayaschittam can validate such Sambandhams.

6. Korapuzha.

7. The Nayar males of North Malabar do very often form Sambandham in South Malabar. The reverse is not the rule.

8. No. The reason is not exactly known. There is an impression amongst the natives of North Malabar that they have a better social status. The objection on the part of our females to cross Korapuzha is probably another reason.

9. There is a meaningless prohibition against our women crossing Korapuzha.

10. The reason is not well known. The general impression is that the objection is based on social grounds. This seems to me to be wrong. The rule must have originated from political grounds which have now died away.

11. Tâli-kettu is the tying of Tâli (neck ornament) round the neck of Malabar girls. It is an emblem to show that the girl has attained an age to have the honorific title of "Amma" after her name. In fact, the ceremony concludes with that installation. The ceremony is of various kinds. In North Malabar, it consists in giving dinner to Asmadies (fellow caste people), feeding the poor, feasting Brahmans and giving them Dekshina (money) and tying tâli. Finally, Atuttôn or Marân (the man who purifies us from pollution) calls the girls in public "Amma."

12. In North Malabar, Brahmans and Kshatriya princes tie the Tâli. In South Malabar Tâli is generally tied by a man of the fellow-division and he is called മണാലൻ (Manâlan).

13. There is such a custom but it is not invariable.

14. I most emphatically deny the existence of any such right. Tâli-tying is by no means intended as marriage and this is sufficient reason why he should not cohabit.

15. None whatever.

16. I have no personal knowledge.

17. There is certainly no pollution. Such a thing is not observed anywhere in North Malabar. I have read since the marriage bill controversy, that such a custom does exist in some parts of South Malabar. I can't say where or amongst whom. It is difficult to understand the meaning of the custom.

18. In some places, mothers also tie Tâli.

19. It is believed that Tâli-kettu before puberty is imperative. There is only custom in justification.

20. A Malabar girl has no independent voice in the matter. The bridegroom is generally selected from her Asmâdi on consultation of horoscope and the wishes of near relations. This is generally done by her Karanavan in consultation with her father. The bridegroom then comes to her house on an auspicious day appointed for the ceremony and gives her in the presence of her relations either money or clothes. Grand feast and Dekshina to Brahmans precede. I have avoided details.

21. I do not know what is the practice in such cases in South Malabar. In North Malabar, such Sambandhams are very rare. When they occur, there are no formalities observed and they are justified on the ground of mutual love and consent alone.

22. There are slight differences in details. Even throughout the whole North Malabar, the details of the ceremony are not uniform. Such is the case in South Malabar also.

23. I am surprised that the question has been asked. The assertion is made on account of one or two isolated cases supposed to have existed in some remote corner of South Malabar. We call such cases of shameless brutality "barefaced prostitution" and not "Sambandham."

24. It is most clearly prohibited. The prohibition is to be read from the immemorial custom obtaining amongst us, which is our law. We follow Dharma Sas-tras so far as they are consistent with our customs.

25. In North Malabar, such cases are practically nil. It is however believed that women have equal power with men for dissolution of marriage.

26. It cannot be said that observance of formalities is indispensable. As a matter of practice however, no dissolution is allowed unless the causes for the same are enquired into and discussed upon by guardians and relations.

27. Yes.

28. None whatever.

29. Generally in the house of her Sambandakâran.

30. In South Malabar till recently the rule was the reverse. I mean that the woman used to live in her own family house.

31. I have no hesitation in answering the question in the affirmative.

32. The rule is for one man and one woman to cleave together for life.

33. Sambandakâran feeds and clothes them.

34. Anandaravans who get maintenance from the Tarawad get no separate remuneration for working for the Tarawad. I can't say they do often cultivate land for rent. Surplus is at their disposal.

35. Anandaravans generally try to earn something for themselves.

36. They support with such earnings their wives and children as also their immediate relations such as mother, brothers and sisters. Their earnings are not as a rule handed over to the Karanavan.

37. There is such a thing as Puthravagâsam in North Malabar. It consists in giving house-hold utensils and money according to circumstances to the children of the deceased, soon after his death. I am not sure that there is a practice analogous to it in South Malabar.

38. I have given my reasons against such law in my letter addressed to H. M. Winterbotham Esq., c.s., on the subject.

39. I would prefer the customary form now obtaining in North Malabar and registration of marriage for evidence of the same.

40. To render Sambandham valid, at present, it is not necessary that the husband should be without a wife then living. There is also no restriction about age. Special attention is paid to the class or sub-division to which the husband belongs.

41. If legislation is necessary, I would adopt all the conditions mentioned in question 40, except perhaps the one as to the girl's age which might be reduced to twelve.

42. Adultery, cruelty, change of religion, incurable and contagious disease in either, poverty to the husband and even intemperate habits in him are considered sufficient grounds.

43. In North Malabar, a man's wife and children live along with the members of his family in his Tarawad house and are there maintained. In South Malabar where the wife lives in her own house, she is given clothes and oil by the husband who also in most cases makes contribution for other necessities.

44. If again legislation is to be undertaken, I would include brothers and sisters amongst heirs and make the acquirer's mother's maintenance a charge on his property. Under the immemorial custom of Malabar, the private property of any individual member devolves on his immediate heirs *viz.* brothers and sisters after his death and does not lapse to the Tarawad. Under no circumstances then should the provision for devolution of property on the Tarawad precede that for the same on the acquirer's brothers and sisters and also sister's children.

45. There are some instances of such Sambandhams.

K. IMBICHUNNI NAIR,
1st Grade Pleader, Tellicherry.

4-5-91.

To,

H. M. WINTERBOTHAM ESQ. C. S.

SIR,

In reply to your questions regarding the proposals of the Honorable C. Sankaran Nair, I beg to state as follows:—

It seems to me that you have started with wrong premises. The whole tenor of your letter and the nature of question I, clearly indicate that you treat it as an admitted fact that the marriage now obtaining amongst us is such as can receive no legal recognition. The point, Sir, is not admitted; nay, it is most seriously disputed. It is an insult to the Malayalis to say that they have no valid marriages and that their present wives are strictly no wives at all but are concubines. What is it

that is so very abominably defective in our marriage system? Is it want of publicity or solemnity in our ceremonies, or is it absence of civil rights out of marriage connection? I should think that there is no valid objection to be raised against us. We perform our marriages in a respectable and approvable form. A description exhaustive, of our marriage ceremonies has very often appeared in print and it is unnecessary to detail them at present.

2. As to the rights and liabilities of the married parties, there is, no doubt, some difference of opinion. Judicial decisions can not be said to have finally settled the question one way or the other. In a case from North Malabar, a Division Bench of the High Court has held that a junior member's wife's maintenance is a valid charge on his family income. It is, further, now an admitted proposition of law that a Marumakkathâyam Mopla is legally bound to maintain his wife following the same law and that the Karanavan of his Tarawad is bound to contribute towards her maintenance. On the other hand, it has been held that a Karanavan's right to the custody of his minor Anandaravan is preferential to that of the minor's father. Whatever may be the effects of Judgments of Courts which, as I said before, are not uniform, there is little doubt that a careful investigation of our time-honoured customs can not fail to convince that our present marriages are perfectly valid and that a legislation for the so-called legalising of them is simply superfluous.

3. I am a native of North Malabar where I have been also practising as a 1st Grade Pleader for the last 11 years. The rule there is of the wife and children living under the guardianship of the husband. We certainly do not cry for legislation. We will be perfectly content if our immemorial customs regarding devolution of property and rights and liabilities of the husband and wife are properly understood and correctly laid down.

4. One objection often raised against the validity of our marriage is our alleged freedom of capricious divorce. It is said that our's is a customary law and that no custom which is unreasonable can receive the sanction of law. I am not quite sure if there is anything against reason in a custom under which both husband and wife are clothed with equal power of divorce in cases of disagreement and dissatisfaction. I am certainly unable to appreciate any provision of law which compels a husband and wife to resort to a court of justice for dissolution of marriage. Our customs in cases of divorce are not less reasonable than the provisions of Mahomedan Law on the same subject. A Mahomedan husband is at liberty to divorce his wife at any time and without any reason. He pronounces "Talak" three times and the marriage-tie is broken. No doubt, a Mahomedan wife is not allowed a similar freedom, but I do think that it will be said that this partiality on the part of the Mahomedan legislator for males is to be applauded. Marumakkathâyam people are also not without caste rules meant as restrictions on divorce.

5. It is true that under our system a son has no claim of inheritance through his father. There is, however, ample provision for his inheritance through the mother and the defect of law therefore leads to no hardship. In the case of a father who is not devoid of natural feelings, the law has left open various ways of providing for wife and children. His self-acquired properties are entirely at his disposal and if there is danger in premature disposition of property by gift, testamentary power of disposal can sufficiently meet his wishes. On the whole it seems to me to be nothing but absurdity to say that the Malayalis are aggrieved by a defective marriage system and are driven to claim redress from legislative council. I do not, for a moment, say

that our system is perfect everywhere. Like many others, we also stand in need of certain social reforms. Such reforms, influential gentlemen like Honorable C. Sankaran Nair may work out from within and need not force on us by means of legislation.

6. Any attempt at legislation to create a mode of inheritance different from what is now detained, I certainly denunciate. It simply tends to shake the shackles of Maurakkathâyam law and is pregnant with immense mischief. That the law is intended to be permissive is no recommendation in its favor. For various reasons, a permissive law on the subject is more objectionable than a compulsory one. In the case of the latter, consequences evil and beneficial, are shared by all the families and by all the members thereof. The former creates distruction amongst the members of the same family and place them in unequal and unfortunate position. The Bill, if passed into law, will be a dead-letter with the uneducated masses. In the hands of the English-educated minority it may receive favor. We will thus come across ladies and gentlemen in the same family following different pervasion of law, and conflicting mode of inheritance and possessing contradictory views of obligation and sympathy and autogonistic interest in almost everything. In such families, instead of peace and happiness, there will be more of continual quarrel and constant litigation. To all intents and purposes, followers of the Hon'ble Gentleman's law become strangers to the Tarawad of their birth, and in the long run they loose all regards for, and of, the family of their mother. If at any time, they return to their old family home, it will be more to threaten the Karanavan with a law-suit for non-payment of maintenance than for anything else. Need I speak of the unpleasantness of such an unsympathetic half—Makkathâyam man becoming the Karanavan of his Tarawad and ruling the destinies of a corporation to whose welfare he is indifferent if not opposed. The consequences I say will be frightful.

We will now pause to consider what the effect of the law will be on the future education of the Malayali youths. It cannot be denied that in a majority of cases, the English education of a junior member costs much more than what he is legally entitled to, in a fair distribution of family income. It is the Marumakkathâyam tie that raises fair hopes of individual acquisitions lapsing to the Tarawad and individual education being considered investment of money for the family, which encourages Karanavans to make large allotments for the purpose and which compels Anandaravans to nod assent for the same. Instances are not rare where Tarawads have even contracted debts for the education of its junior members. Where is the room for such inducement or encouragement hereafter? Our Karanavans may rightly say that for aught they knew, their English-educated Anandaravans might eventually become enthusiastic admirers and supporters of the marriage law and renounce the Tarawad that patronise them and the family that once lived in affection and harmony with them, and that, consequently, there is neither necessity nor justification for spending for Anandaravan on English education anything more than his share of income under Marumakkathâyam Law. Considerations like these may not deter those of advanced liberal views but such men, I need hardly say, are comparatively very few.

Even to a father, the Bill is very suggestive. He is taught to see the folly of entertaining any hopes hereafter that education of one child is, in a way, provision for all children. He will read from the Bill the necessity of providing for all his children alike and more perhaps for his daughters.

I am afraid I have been long and I shall therefore conclude by answering your first question in the negative.

2nd question.—This I answer without hesitation in the affirmative. The advantages of such a law are indeed various and I do not think that from the whole Malabar there will be even one dissentient voice. It might be said that *Wills* were not unknown to Malabar and that their validity to a certain extent has been established by a recent judgment of the Madras High Court. There is still room for considerable doubt on the subject and it is most desirable that in the case of a measure so very beneficial, the validity must be made doubly sure. How far and under what circumstances should a *Will* be held valid are questions of detail and may be discussed hereafter.

I remain

Sir,

Yours faithfully,

K. IMBICHUNNI NAIR.

1st Grade Pleader.

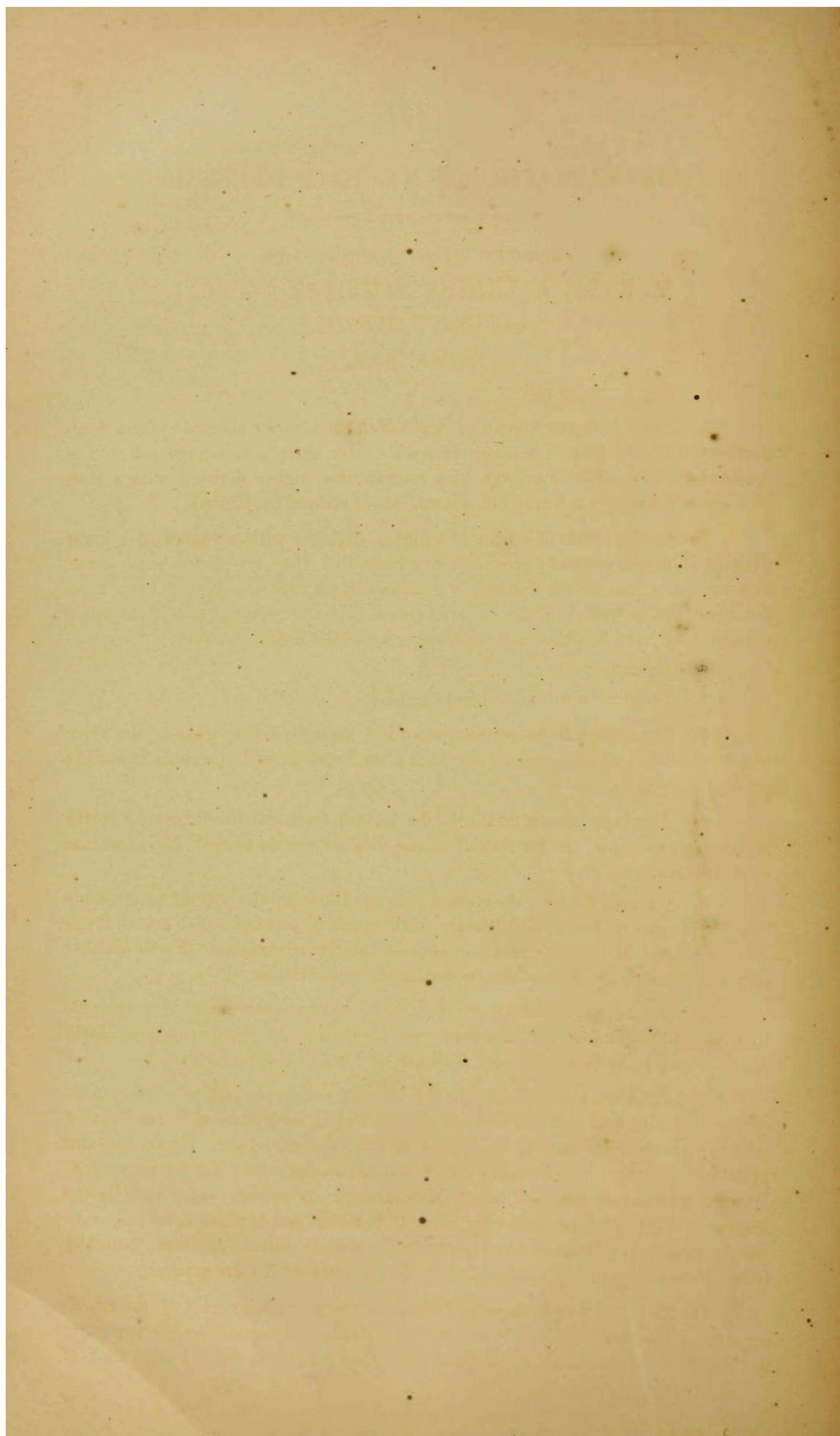
Quilandy,

25th April, 1891.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. A. CHATHU NAMBIYAR AVARGAL,
District Munsif,
NADAPURAM.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

M. R. RY. A. CHATHU NAMBIYAR AVARGAL,
DISTRICT MUNSIF,
NADAPURAM.

1. Yes.

2. No. A Nayar woman in North Malabar is never allowed to form Sambandham with any man of her own free will. Her guardians always select a fit husband for her. The marriage of a woman of a higher division with a man of a lower division is not only not allowed but is strictly prohibited.

3. Sambandham of a man of a higher division with a woman of a lower division is always allowed; provided, of course that they are of the same caste. For instance a man of the Chârna, or Agatha Chârna, division cannot have Sambandham with a woman of the Puratha chârna division, though a man of the latter division may have Sambandham with a woman of the former division.

4. Cannot.

5. They are always excommunicated.

6. Korapuzha is the present boundary, though Kottapuzha, or the river just to the south of Badagara, or Vatakara *alias* Vatakêkara (northern bank) was the ancient boundary.

7. The Nayar men of South Malabar cannot form Sambandham with North Malabar women; but Nayar men of North Malabar can do so with Nayar women of South Malabar.

8. Cannot. Because the custom does not allow it; the current notion being that the Nayars of South Malabar are on the whole in point of social status, lower than the North Malabar Nayars, and because the Nayar women of North Malabar may not eat with the Nayar men or women of South Malabar.

9. The rule is that they may not; but I have recently learnt that this rule like all rules admits of some exceptions; for instance, a Nayar woman of North Malabar may go to South Malabar with her husband or other guardian.

10. The reason is this. In the days of native Rajahs who were often quarrelling with each other it was considered unsafe for women of North Malabar to pass from the territory of their own Rajah to that of the Rajah of South Malabar. Further, Nayar men of South Malabar cannot marry Nayar women of N. Malabar who cannot eat with South Malabar men or women, and therefore the Nayars of North Malabar evidently thought it better not to allow their women to mingle with South Malabar people, who are as already stated considered generally to be inferior, in point of social status, to North Malabar Nayars generally.

11. Tâlikettu Kalyânânam is the formal or the preliminary part of the marriage among the Nayar girls of Malabar. In all Hindu marriages there are two parts to be performed, the formal or the preliminary, and the material. In the case of

Brahmins both these parts are performed at the same time in the course of a continuous ceremony extending over a period of not less than 4 days, thus causing the bad result of child marriages. But we the Nayars of Malabar in following the Brahmins divide the ceremony into two distinct parts, and perform them on two different occasions, when the proper time arrives for the performance of each part. After the Tâli Kettu Kalyânam ceremony is over the girl attains the rank of woman, and becomes eligible for marriage proper. Tâli Kettu is therefore not the marriage proper among us but only a religious condition precedent to the marriage.

12. In North Malabar Tâli is tied by a respectable, holy, learned and elderly Brahmin. He has no particular name in that capacity.

13. It is sanctioned by custom but is rarely practised in North Malabar.

14. Decidedly not. Because; he has not performed the marriage proper and become the husband of the girl. In fact he has done nothing that a husband proper ought to do according to our well-established and immemorial custom. Tâli Kettu Kalyânam is not, as already remarked, marriage proper but only the preliminary or the formal part thereof.

15. There is no prohibition on that account. If he is qualified and approved he may form Sambandham with her afterwards.

16. I am not aware of any such instance.

17. No pollution whatever is observed in North Malabar. I am not aware of the custom in South Malabar in this respect.

18. Not in North Malabar. I hear that it is the custom in some parts of South Malabar.

19. Yes; that is the rule among the Nayars of Malabar and the Hindu law ordains it.

20. In North Malabar the girls are invariably married before they consort with any man. They are by rule and custom not at liberty to select their husbands. The material part of the marriage proper, viz. Vastradânam (gift of cloth) must always be gone through by them in the following form before they may cohabit with a man. After Tâli Kettu any eligible man can ask the girl in marriage. The proposal must be made to the father or the guardian of the girl; and if the same is accepted a day will be appointed to examine the horoscopes of the proposed bridegroom and bride, and they are examined by an astrologer at the house of the bride in the presence of the relatives of the bridegroom and the bride and if they agree a day will be fixed for the performance of the wedding. After that the bridegroom must invite his relatives and friends for the ceremony. On the day fixed the relatives will attend his house, and there they will present him with new cloth or money at the central room of his house, and after that he and his relatives and friends and some others start in a procession at night for the house of the bride with a bundle of a new cloth and betel and areca nuts and tobacco. By that time a number of her relatives will have assembled on her guardian's invitation at her house to witness the wedding and a sumptuous meal will have been prepared there for the bridegroom and his party. The bridegroom is, on arrival, taken to the central room of the house and made to present the cloth to the girl in the presence of the relations and friends of both parties. After this all are feasted and then the betel, nut and tobacco are distributed among the relatives of the bride

and after that the bridegroom and the bride retire to the central room where they sleep that night. Next morning the bridegroom and his party go to his house and send a party of women to take the wife to the husband's house. The wife is accordingly brought to the husband's house the same day and she lives with her husband in his house at the expense of his Tarawâd.

21. Yes, the same formalities are observed in North Malabar. But, of course, in that case the bridegroom and his Brahmin friends and relations do not take their meals in the bride's house, but in a temple or "Matam" near to that house.

22. Throughout North Malabar the formalities are generally observed. In South Malabar I hear that they are not strictly observed. There the custom in this respect is, I understand, rather loose or indifferent; in as much as in the majority of cases the women of their own accord form Sambandhams with the men they like.

23. She cannot have in North Malabar. But I hear that in some parts of South Malabar this practice is current.

24. This is always prohibited in North Malabar and the law prohibiting this bad custom will be found in in Mahâ Bhâratha (vide Sambhava Parva where the discourse between Pându and his wife Kunthi occurs about the begetting of children by Kunthi, after Pându was owing to a cause prevented from touching his wives Kundi and Madri). The Hindu law is also against this practice; and we the Sudras or Nayars of Malabar are governed by Hindu law subject only to certain modifications ordained by Sri Parasu Râma and other sages.

25. She can do so with the consent of her guardian in North Malabar, but in South Malabar, I hear, that she can do so of her own accord only.

26. In North Malabar in the presence of 2 or more respectable neighbours and relatives new cloth must be given to the woman by the husband and she must be told then that their marriage is dissolved from that date. I don't know if any such formality is necessary in South Malabar.

27. Can have.

28. Nothing but the social odium to which he is thereby open.

29. In North Malabar in the house of the husband.

30. Throughout North Malabar, and I hear that in some parts of South Malabar this is the custom.

31. According to the custom in North Malabar, he or his Tarawâd must support her and her children while they live with him or in his Tarawâd house. In South Malabar where, as a rule, wives live in their Tarawâds they and their children are maintained by their Tarawâds.

32. In North Malabar, as a rule, they live as husband and wife for life. It is only in very rare cases that a divorce takes place in North Malabar. In South Malabar, I hear that the change is more frequent than in North Malabar.

33. He does.

34. No special allowance is made to them when they are under the protection of their Kârnnavans. They are comfortably maintained by their Kârnnavans. Sometimes Anandravans cultivate Tarawâd lands for rent and in such cases they are allowed to deal with the surplus, if any, at their pleasure.

35. As a rule they work for their Tarawâd if they are asked to do so by their Kârnnavans, but at the same time they try, if possible, to earn something for themselves.

36. They do not, as a rule, hand over their earnings to their Kârnnavans but keep them to themselves. They try to get maintenance from their Tarawâd and if that is not sufficient to maintain them comfortably they spend something out of their own acquisitions also for their own expenses.

37. In North Malabar if a man has self-acquisitions, he generally gives some part of them to his wife and children. This is called Putrâvakâsam. This is sometimes done by the Kârnnavans also with Tarawâd means with the consent of the Anandaravans. This is sometimes the practice in South Malabar also, I believe.

38. There are serious objections to the passing of such a law. In the first place the proposed legislation will enable those who may choose to adopt the same to follow Makkathâyam which is contrary to our Sastras and religion and immemorial custom. Sri Parasu Râma who is an incarnation of our God Mahâ Vishnu and who is the founder of Keralam or Malabar, and its institutions, has ordained that Nayars or Sudras of Malabar should follow Marumakkathâyam like some of the Brahmins of Malabar such as the Brahmins of Payanûr Grâmam like the Tâyakat and Kunnath Tiru-Mumpus. This ordination of the aforesaid sage has been invariably observed ever since the creation of Malabar. To allow by British legislation some of the Nayars at least to ignore the said ordination and the immemorial custom in accordance with it would be opposed to our law and religion; and those who would support or adopt the proposed legislation will therefore be transgressors of our law and religion. In the second place the proposed legislation ignores caste distinctions in the matter of marriage. But the Hindu law and the institutes of Sri Sankarâchâriâr, the founder of "Achârams and Anâchârams" (customs and non-customs) in Malabar, enjoin the strict observance of caste distinctions in all matters. To discard these distinctions in the matter of Nayar Marriage would therefore be sinful and unreligious and it would further give rise to serious disputes and quarrels and disturb the peace in Malabar Nayar families. In the third place the proposed legislation would sow much seed for litigation in the matter of questions which may often arise as to whether the estate acquired and managed by a particular individual is self-acquired, or separate, or belonging to his Tarawâd. Malabar is unfortunately a rich field for litigation already, and several of its families have already been ruined by the curse of litigation; and to add to the seeds already existing would be highly unpolitic and dangerous. In the fourth place the proposed legislation would give rise to family quarrels which are already too numerous in Malabar. As soon as a man marries according to the proposed law he will be disliked by all the other members of his Tarawâd. In the fifth place, I fear, that this legislation would injuriously affect the education of Malayâli youths and consequently the progress of Malabar. I believe that if such a law were made the Kârnnavans of Malabar Tarawâds would hesitate to lay out Tarawâd funds for the education of their Anandaravans lest the latter should marry according to that law and thereby deprive their Tarawâds of their right to inherit the acquisitions made by them by means of the education imparted to them at the expense of their Tarawâds.

39. I would prefer to retain the customary form and to suggest that the same may be recognized by the British law, and that the form of Marriage proper

current in North Malabar may be strictly adopted by the Nayars of South Malabar also and that no legislation is necessary to evidence the marriage; in-as-much as the formalities and the publicity attending the present form of marriage afford enough of evidence of the same.

40 & 41. The answers to these questions will be found in the answers already given. I am decidedly of opinion that no legislation is necessary in the matter of Nayars marriage.

42. Unchastity is the most important cause. If however disagreement owing to other causes, if any, between husband and wife is so great that it is not comfortable for them to live as husband and wife, they can dissolve the marriage with the consent of the guardian of the husband, in North Malabar.

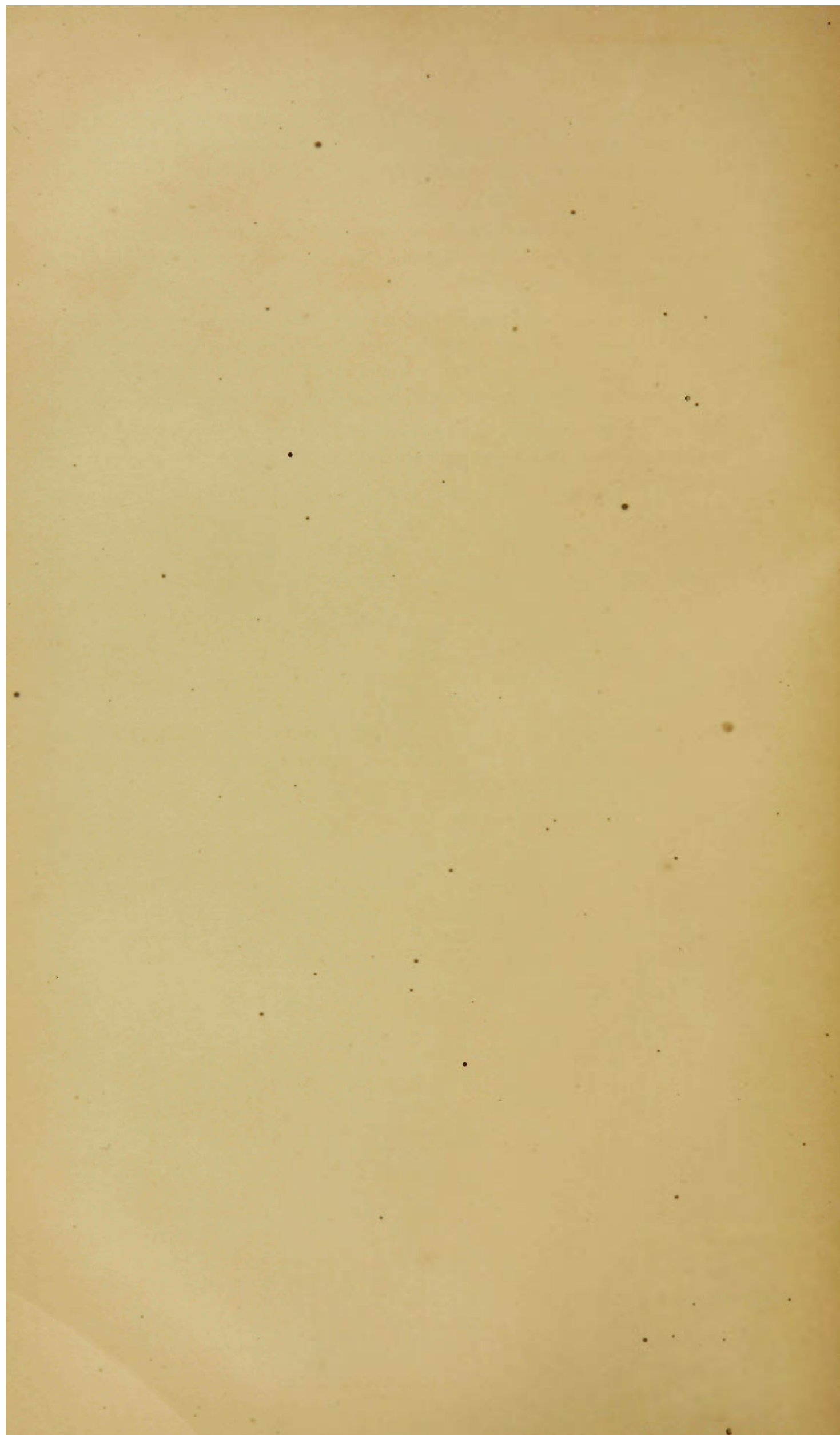
43. In North Malabar the wife and children are maintained by the Tarawâd of the husband while living with him or in his Tarawâd house.

44. I consider it unnecessary to answer this question as in my opinion the proposed law is unnecessary and illadvised.

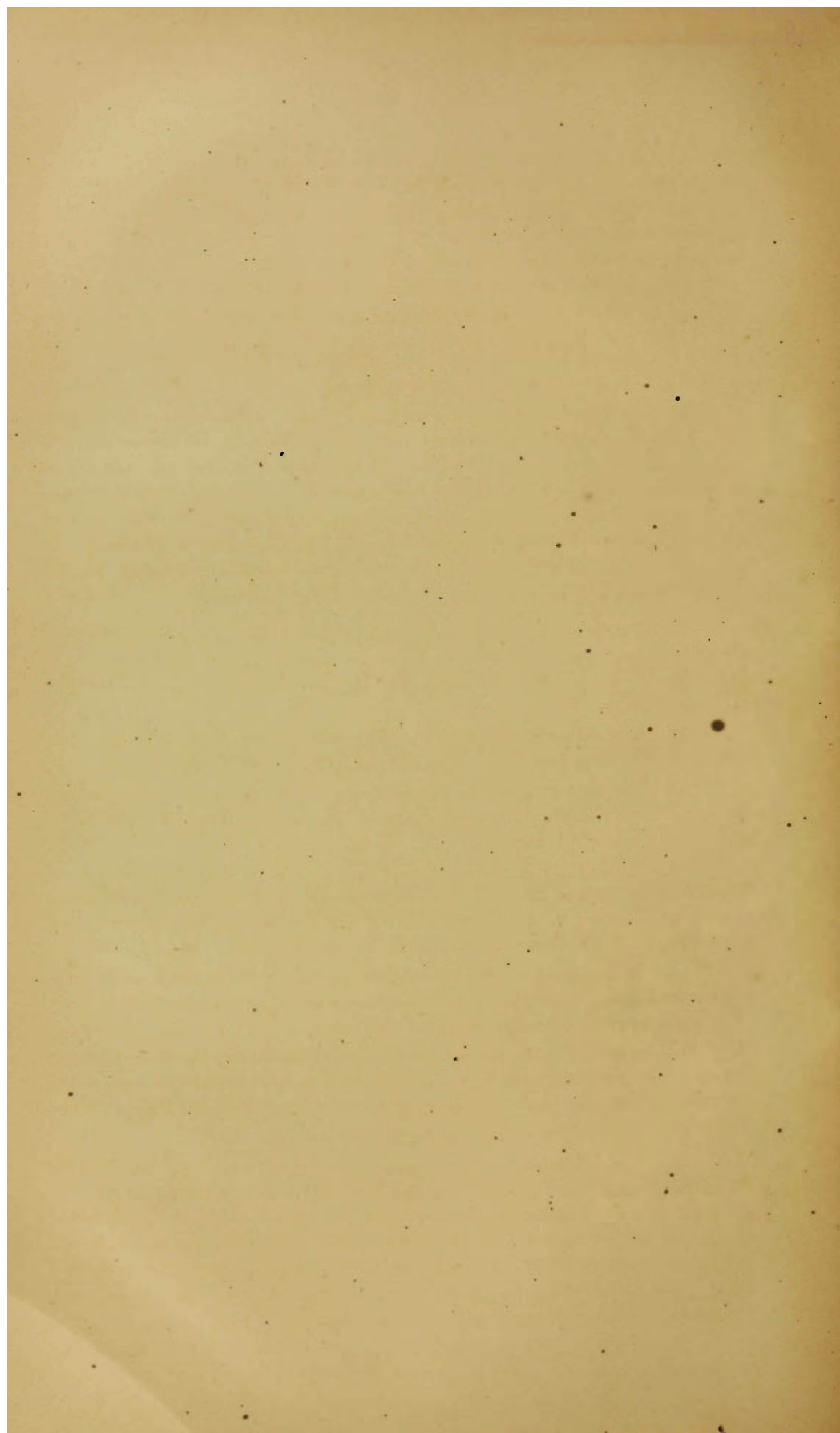
45. Yes. But a woman of North Malabar cannot be married to a South Malabar, Cochin, or Travancore man.

A. CHATHU NAMBIYAR.

District Munsif of Nadapuram.







EXTRACT FROM
ANSWERS TO INTERROGATORIES

BY

M. R. Ry. KUNHI MANGALATH MANAYIL SUBRAMANIAN THIRUMUMP Avargal,
NAMBŪDRI LAND-LORD,
PAYANUR GRĀMAM, CHIRAKKAL TALUK.

11. Tālikettu kalyānam is a preliminary part of marriage. *Description.* Although it is attended with ceremony up to Pancha mehini (പഞ്ചമേനിക്കി) still in North Malabar its principal object is to show that the maiden can henceforth use ornaments, such as *thôda*, *kâthila* (earrings) *charatu* (marriage thread) &c, use *thattu* (താട്ട, the under cloth crossed between the thighs) and assume the name of either Akkalamma, Pullayāramma, Nēthiyāramma &c. according to the caste she belongs to, instead of miss, or maiden (കുഞ്ച) as she was hitherto called, and to consider herself no more a kanyaga (കുഞ്ച = maiden, or virgin).

12. Tāli is tied by her father. As Tāli kettu, the preliminary marriage ceremony is to be performed before a girl attains her puberty and before she is 12 years old, it is the father's duty to give her the necessary ornaments. Therefore the father ties the Tāli.

13. The custom of tying the Tāli for a number of girls at the same time by one and the same man does not prevail among Nayars of North Malabar.

14. The man who ties the Tāli obtains no right to cohabit with the girl because it is only a ceremony preliminary to marriage, performed by the father without any husband being fixed.

15. As long as it is the father who ties tāli it is evident that he cannot have sambandham with the girl. Among those who get the tāli tied by Brahmins there is no objection to sambandham being formed by him who ties the tāli, provided the usual sambandham ceremonies are undergone.

16. If the person who tied the tāli should become the husband or sambandhakaran of the girl, he should be a Brahmin or her father's nephew (sister's son). The usual pudamuri ceremony should be undergone.

17. Amongst those who get the tāli tied by the father, there is pollution if he dies,—not as the person who tied the tāli but as father. To those who get the tāli tied by Brahmins, there is no pollution if the man who tied tāli dies.

18. If the father is dead the mother generally ties the tāli.

19. It is compulsory among Nayars following Marumakkathayam that the Tālikettu ceremony should be performed before the girls attain puberty. After 12 the age of puberty commences, and the ceremony should therefore be performed before that age. This is done so that the girls may not attain puberty before the preliminary marriage ceremony. Marriage among all castes should be performed before puberty. Amongst Brahmins, where a suitable husband cannot be found, the marriage can be performed even after puberty.

20. If after the Tālikettu ceremony a girl wishes to have sambandham with a man, a pudamuri (cloth gift) ceremony has to be undergone.

Description.—The Karnavan, father and an Enangan (friend of his own caste connected by marriage or otherwise) of the man who wishes to have Sambandham with any girl, go to the house of that girl and speak to the Kâranavan of the girl about the intended Sambandham. If he consents the horoscopes of the two are examined, and on the horoscopes agreeing an auspicious day is fixed for Sambandham.

On that auspicious day, the girl's people prepare a repast; during night the would-be-husband and his castemen (friends) come to the house of the girl, and enter the western room with friends, and present betel and nut to the males and females of that tarawâd, and his castemen, according to the prescribed custom. The girl is then introduced into the western room by females to whom the Sambandhakkâran presents cloth. The Brahmans present, are then presented with gifts by the bride and bridegroom. After these preliminaries the people who assembled then take meals with the Sambandhakkâran. The man and woman are then considered man and wife.

21. When a Nayar lady forms Sombandham with a Nambudri or Pattar, the same ceremonies which a Nayar has to undergo in such cases as detailed above have to be undergone with this difference. As Brahmans cannot take meals in the girls' house he has to feed them in his matam if he has any, or in temples, or feeding houses. His Brahman friends he has to feed in his house.

22. In North Malabar the formalities attending Sambandham are alike every where. I cannot give any decided answer in reference to the practice in South Malabar as opinions differ.

23. In North Malabar a female cannot have more than one Sambandhakkâran. It is not customary.

24. It is objectionable for a female to have more than one Sambandhakkâran. This is not permitted in order to prevent them from becoming prostitutes.

25. A woman cannot terminate Sambandham at her will and pleasure.

26. If the Sambandhakkâran hears anything ill of his spouse, he informs her people accordingly, and dissolves the Sambandham.

27. A man can form Sambandham in more than one house at the same time.

28. There is nothing to prevent him from so doing.

29. Until the Vettalakettu (betel-leaf-bundle) ceremony is performed by the husband in his house, the woman sleeps and takes her meals in her own house. The ceremony of introducing the bride for the first time after Sambandham into the bridegroom's house is called *Vettalakettu* ceremony. After the ceremony she lives in the Sambandhakkâran's house. If she conceives, the ceremonies attending on the 1st conception and confinement are performed in her own house. The confinement generally takes place in her own house.

30. This is the custom in North Malabar. I do not know the custom in South Malabar.

31. According to custom the man either supports, or does not support, his wife and children during Sambandham. There is nothing compulsory.

32. A man and a woman either cleave together for life, or separate themselves, according to the good or bad disposition of each.

33. If a woman lives with her Sambandhakkâran in his house and bears him children the husband has to feed and clothe them according to custom.

34. If the Anandaravan lives with the Kâranavan in the Tarawâd they all work together for the Tarawâd and the proceeds go to the Tarawâd property. If they live separate, and earn anything by renting and cultivating Tarawâd lands, they have every liberty to dispose of their earning; but usually the earnings are made over to their nearest relatives (sisters' children).

35. The Anandaravars work both for the Tarawâd and for themselves.

36. The Anandaravars support their wives and children with their earnings. The surplus of their earnings are made over to their sisters' children.

37. The Kâranavan of a North Malabar Tarawâd has no liberty to transfer property to his children or others without the consent of Anandaravans, because in North Malabar nephews inherit property. If he is one who has earned much and if he wishes to make over a portion to his children, he usually does it with the consent of his nephews. Such grants are called Puthrâvakâsam (son's right). It is called Puthrâvakâsam because the property does not go to the Tarawâd of the son, but is enjoyed by him and his sister's children separately.

38. A law not inconsistent with the existing custom cannot be unwelcome to the Marumakathâyam Hindus. It is objectionable to legislate against existing customs.

39. If the Bill for legalizing marriage is passed into Law the old practice of settling things through father, Kâranavan, relations and friends will die out, and the methods pointed out in the Bill, which are in direct contravention of the existing customs, have to be followed. It is therefore not a good one. If declaration is to be made before a Registrar the boys and girls will be led to act independently without caring for the words of the parents and elders, and without obtaining their consent, as if it were a matter of taking land on rent. This is not good.

40. The conditions of a valid marriage set forth differ much from the recognized practice. It is evident from the very meaning of the words 'marriage' and 'Sambandham'. 'Sambandham' can be dissolved; but 'marriage' cannot. At the time of marriage a wife may be alive, but not so when a husband is alive.

There is no rule that a female can marry only after 14. It is the rule that permission of the parents and elders (ഉമ്മൻ) is absolutely necessary however old she may be.

41. There should be a Law preventing females of South Malabar from having more than one Sambandhakkâran at one and the same time. A woman will be justified in marrying another if (1) her Sambandhakkâran dies (2) if he has become a devotee, if he has left the country and does not return for a reasonable time (3) if he is impotent (4) if he has been excommunicated. It is not proper that she should be allowed any liberty to change Sambandham at pleasure.

42. According to social usage reasonable grounds for dissolving a Sambandham are:—

(1) Madness, excommunication, leprosy, impotency, being born in the same Gôtram, blindness, deafness, chronic disease, skin disease, these are grounds for divorce.

43. It is the custom among Nayars to give oil and clothes to the wife and children, to supply her wants during confinement (oil, medicine, &c.) to undergo the expenses of Chôrûnu (first feeding) of the new-born child with rice; Pêrvili "naming" of the new-born in the shape of ornaments &c., and such other provisions according to a person's means.

44. The law of Marumakkathâyam was enjoined by Parasurâma, the creator of Kêrala, and Shangarâchariar, the law-giver. It has been observed from time immemorial. To try to convert it into Makkathâyam is only disregarding them, and is in direct contravention of the established customs followed for centuries by our ancestors; and if any change is effected it will be found that the change will be neither Makkathâyam nor Marumakkathâyam, but a mixture of the two. I have heard many people of North Malabar say that the intended law is against their interest and a source of grievance to them. I do not therefore agree with any of the provisions proposed for legislation.

45. The Nayars of North Malabar do not give their females to people of distant places in marriage.

(Signed). SUBRAMANIAN THIRUMUMP,
Nambudiri Land-Lord of Payanur
Grâmam in Chirakkal Taluk.

(True translation as near as may be).

H. M. WINTERBOTHAM,
Collector of Malabar
on Special Duty.

EXTRACT FROM
ANSWERS TO INTERROGATORIES

BY

M. R. RY. KARAMVELLI KUNHUNNI KURUP, AVARGAL,
NAYAR LAND-LORD,
CALICUT TALUK.

Amongst Nayars and other high caste people following Marumakkathâyam, a man of a higher division can *keep** women of a lower division. Sambandham (with them) is prohibited. But in the case of Rajagan (washerman) and Kshuragan (barber) and other low classes (of Nayars) their women must not even be kept (by the higher caste men).

2. The same liberty can never be granted to women.

3. There are many divisions amongst Nayars between which there is no inter-marriage. Sambandham is not customary between the Chârnatha and Sudra Nayar divisions.

4. In such case the woman would be turned out of society, and not received by her own caste.

5. No.

6. Kôrapuzha.

7. Sambandham is not usual between Nayars of North and South Malabar; but Nayars of North Malabar are in the habit of keeping* Nayar women of South Malabar.

8. South Malabar Nayars cannot form Sambandham with Nayar woman of North Malabar. The reason is that the Nayars of North Malabar have the superiority in caste.

9 and 10. The old rule was that women living between Kallai river in the South and Kôrapuzha, and women living North of Kôrapuzha, were not allowed to cross the river (either way.)

11. Tâlikettu Kalyânam is a ceremony by which at the auspicious moment, in an ornamented pavilion, with certain rites, the ornament called Tâli is fastened on, and by these rites she who was a Kanyaga (maiden) becomes an Amma (matron.)

14. The man who ties the Tâli acquires no right to cohabit with the girl. Amongst the Nambudiris, the person to tie the tâli is the girl's father; if she has no father, her brother,—if she has no brother, her father's brother,—if she has no father's brother, a male who is related so as to observe 10 days' pollution,—if there be no such relative, then the mother. Can these persons cohabit with the girl? Just so it is in the other case. The tâli-tying is not a marriage.

20. After Tâlikettu when she comes of age it is necessary that she should go through the ceremony for beginning Sambandham, called Pudamuri and other names. This is the ceremony which among Nayars is the Vivâham (marriage). For it the parties to the Sambandham, their relatives &c., must be invited and a feast &c., must be given.

*NOTE,—The word used is the idiomatic phrase for keeping a mistress.

21. The same ceremonies must be observed if a Brahmin or Kshatriya, is the husband, except that he will not eat in the house.

25. A woman cannot terminate the Sambandham at her pleasure. Women are not independent in such matters.

26. Amongst Nayars to terminate a Sambandham there is no formality whatever.

38. There is no necessity for such a law. A majority of Marumakkathâyam Malayâlis neither desire nor consent to such a law. To pass a law objected to by the majority is unjust and very grievous to the public. •

This will be clear if leading people are questioned personally. Multitudes beg that Government will not pass such a law without so doing. It is also contrary to the Proclamation of 1858 in which the Queen promised never to interfere with matters relating to religion. Moreover to change a law of succession and a law of marriage which have been in force from time immemorial is not a thing to be agreed to, and will be very grievous and hurtful to the people. Besides from this cause many suits and family quarrels, and numerous other inconveniences and evils will afflict the Marumakkathâyam tarawâd, and thereby many tarawâds will speedily go to ruin. It can never be pronounced proper, nor can the passing of it be willingly consented to.

41. Nothing to add or omit because, I wholly disapprove of the proposed marriage law.

42. Misconduct of the man or woman.

44. The new rights can in no way be agreed to.

(Signed) KARAMVELLI KUNHUNNI KURUP.

(True translation as near as may be).

H. M. WINTERBOTHAM,

Collector on Special Duty.

MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. V. KELU ERADI AVARGAL,

DISTRICT MUNSIFF,

PAYYANAD.

1. Yes.

2. No.

3. Sambandham is forbidden between Sâmandans, such as Êrâdi, Nedungâdi, Vellôti and Tirumulpâd on the one side, and Ambalavâsis such as Wâriar, Pisharôdi, Nambiassan &c., on the other. Even amongst the Ambalavâsis inter-marriages are not allowed.

As regards Nayars their divisions are numerous. A Kiriya Nayar can have Sambandham in any of the lower divisions such as Sudras, Purathchârâtha, Akathchârâtha, Athikurissi, Pallichân and Vattêkkât. But no Nayar of the lower division can have Sambandham in any above it.

Even among the *Sudras* there are several sub-divisions, and the superiority of each depends upon the superiority of the Illam, or Mana, to which it is attached.

4. If a woman of a higher division admits for her husband a man of a lower division, she subjects herself to exclusion from community.

For instance, if a woman of a Sâmandan, or Ambalavâsi, caste takes a Nayar for her husband she is altogether put out of caste. Similarly if a Kiriathil woman takes a Sudra, or Vattêkkâtavan as her husband, she is also excluded from her community, and it may be stated generally that when marriages are contracted between different divisions in contravention to the customary rules the female, as well as her house people, are shunned by their community. On public occasions such as Kalyânam and other ceremonies, where the Castemen generally assemble, the members of the above family are not only not invited, but their presence is even avoided.

5. No.

6. Kôrapuzha.

7. The Nayars of South Malabar do not generally form Sambandham with those in North Malabar. But the Nayars of North Malabar form Sambandham in South Malabar.

8. I do not see why it should not be done. But cases where such a Sambandham has been formed are indeed very rare. The cases are rare, because the females of North Malabar do not generally cross Kôrapuzha.

9. They do not generally do it.

10. Perhaps, when the people of North and South Malabar formed subjects of different Rajahs it was considered unsafe to allow females of one country to go to another.

11. Tâlikettu—which literally means the tying of the Tâli—is one of the grand ceremonies which more or less is celebrated in every Marumakkathâyam Tarawâd. The details of the ceremony vary in different divisions. In every case the day of the ceremony is fixed in the presence of the castemen or relations. It is done after due consultation with Astrologers. In the case of rich Tarawâds arrangements for the feasting of Brahmins, castemen and lower orders, are made. All relations and friends are invited. The person who ties the Tâli is not always the casteman. In the case of some it is so, and in the case of others a man of a higher caste is invited to do the duty.

The day previous to the ceremony, the girls are adorned with jewels and a ceremony called “Ashta Mangalyam,” or “Kayyil Ariyiduga” (pouring rice in the hands) or “Akathu vekkuga” is performed. The meaning of this ceremony is that the blessings of the God Ganâpathi are invoked. The night is spent in jollity, the Brahmini, a female of Nambiassan caste singing the whole night. The next day at the appointed hour the ceremony of tâli tying takes place with much éclat. The great part of the ceremony may be said to end here. In the case of some, the feeding &c., continues for 3 days. The girl at the time of the ceremony is dressed in “Kôdi” (new)cloths which are generally given by the person who ties the Tâli. During the aforesaid 4 days she is supposed to be under pollution and bathes only on the last day. In the case of some a portion of the new cloth, dressed by the girl, is cut off by the person who has tied the Tâli. This I believe is meant to be a divorce in order to permit the girl to be married to another sometime hence, and here the ceremony ends. The Kalyânam is invariably performed before the girl attains puberty.

12. I have stated above that in different divisions different persons tie Tâli. For instance in the case of Ambalavâsis, Kiriathil Nayars, and a few others, their castemen are selected for the purpose. In the case of Sâmandans and certain Nâtuvâlis, a Kshatria Rajah, or a Tirumulpâd of the Kshatria caste, is invited to do the duty. The person who ties the Tâli is called *Manavâlan*.

13. Amongst some it is so done.

14. He obtains no right.

15. There is no prohibition.

16. I am unable at present to give instances.

17. Pollution is observed amongst those whose marriage custom is to have the Tâli tied by an Enangan, or casteman.

18. I am not aware of such cases.

19. She must undergo the ceremony before attaining puberty. I am unable to find anything but custom to support it.

20. Yes. First the horoscopes are consulted; permission of the bride's Kâranavan is obtained, and a day for the ceremony is then fixed. The bridegroom goes to the house of the bride accompanied by friends and relations, and the occasion is made as grand as the position of the parties would permit.

21. The occasion is not made so grand as in the case of the Nayar.

22. The formalities are mostly the same. But I believe there are slight differences. In North Malabar the ceremony is called *Pudava muri* and is celebrated on a grander scale than in the South.

23. No.

24. I can find no prohibition. But such cases are very rare.
 25. Yes.
 26. No formality is necessary.
 27. Yes.
 28. No.
 29. Generally in her Tarawâd house. But there are also many cases where she lives with her husband.
 30. I do not think there is much difference.
 31. No liability is attached to the husband.
 32. The rule is for one man and one woman to cleave together for life and changing is *only an exception*.
 33. He does feed them and clothe them.
 34. No allowance is made by the Kâranavan. The Anandaravans often cultivate Tarawâd lands for rent and in such cases they are allowed to deal with the surplus income as they like.
 35. Some Anandaravars work for the Tarawâd and some try to earn something for themselves. Now-a-days the tendency is more towards the latter.
 36. With their earnings they support their wives and children. In majority of cases their earnings go to the Kâranavan only after their death.
 37. The word is more current in North Malabar than in South Malabar. But in both districts the wife and children cannot claim property as a matter of right. But the husband often gives his property in gift during his life-time and in some cases after the death of the husband, the Tarawâd, out of regard for the deceased, gives some property to his wife and children. In this respect the practice in North and South Malabar is almost the same.
 38. The passing of the proposed law will to a great extent interfere with the present system of inheritance of property. The proposed change will create Tarawâds within Tarawâds and make the inheritance of property more complicated.
- Further, intermarriages between several castes not being permitted by custom, husband must necessarily be chosen from castes higher, generally Brahmins. The law of inheritance which governs the Brahmins being different from that of the Malayalis as well as of those that may submit to the proposed law—they the Brahmins, would naturally be reluctant to contract such a marriage as contemplated by the proposed law. This objection is only applicable to some and I shall not therefore seriously object to a permissive law being passed.
39. If legal sanction is to be accorded to marriage I would prefer to retain the customary form. As evidence of its legal recognition I would propose the following simple form of recording it. In every amsam, or village a Marriage Registrar may be appointed. Registers containing 2 foils and one counterfoil may be retained by him. On the completion of a marriage ceremony, the Registrar may be requested to attend the residence of either the bride or bridegroom with his register. The form may be filled up in the presence of himself and 3 or 4 witnesses, who are able to identify the bridegroom and bride, and the signatures of the parties to marriage may be taken thereto, and of the two foils one may be given to the bridegroom and the other to the bride, as a document to evidence the marriage. The counterfoil should always be sent to the District Registrar.

Here I may say the attendance fee of the Marriage Registrar should in no case exceed the 2nd class travelling allowance of a Public servant.

40 and 41. Condition No. 1 precludes a man from marrying more than one wife. Here it differs from the Sambandham recognised in practice. I would omit this part of the condition. But to the 2nd condition I would add the following, "If she has not already attained puberty;" and in the 3rd condition would reduce the age to 18.

I object to both the 1st and 2nd Provisoes to condition No. 4.

The 1st ignores all caste distinctions; and the 2nd both Pulasambandham, and Dâyadi Sambandham, which under the existing rules form a bar for inter-marriages. I am for preserving the existing caste rules.

42. Adultery.

43. The husband is bound to pay the sundry expenses such as cloths, oil &c. But as a rule maintenance is also given.

44. The proposed rights are fair.

45. Instances are not many.

V. KELU ERADI,
District Munsiff, Payyanad.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. C. KARUNAKARA MENON AVARGAL,
SUB EDITOR OF "THE HINDU,"

MADRAS.

1. Among Nayars and higher castes, a man of a higher division can have Sambandham in a lower division.

2. The same liberty is not accorded to the woman, but a similar one is. As the man is allowed to marry into a lower division, so the woman is allowed to marry into a higher division. Hence, there is no inequality practically.

3. Sambandham between different divisions is forbidden, except under the conditions indicated in the answers to the 1st and 2nd questions. As for Sambandham between Chârna Nayars and Sûdras, the term Chârna itself includes several divisions, and men of some of the higher divisions can and do form Sambandham with Sudra women. Among the rest, Sambandham is forbidden.

4. If a man and a woman belonging to different divisions, between which Sambandham is not customary, form Sambandham, it certainly subjects them to social penalty by way of excommunication from their caste.

5. Such Sambandham can, by no means, be validated by Prâyaschitham.

6. I do not quite understand the question, "what is the recognised boundary between North and South Malabar for caste purposes?"

7. The Nayars of North and South Malabar *occasionally* form Sambandham with one another.

8. There is no possible objection to Sambandham between a Nayar of South Malabar and a Nayar woman of North Malabar, provided convenience warrants, and the conditions of caste are satisfied.

9. The Nayar women of North Malabar are not allowed to cross to the South of Korapuzha.

10. Tradition traces this prohibition to an ancient feud between the Chera-kkal Rajah and the Zamorin which resulted in a ruling by the former that the women of North Malabar should not enter the Zamorin's territory.

11. I am unable to answer this question in detail within the short time allotted to me. But I may say that the Tâli-kettu Kalyânam does not materially differ from the Kalyânam or marriage among other Hindus.

NOTE.—In Malabar the ceremony is popularly known as Penkettu Kalyânam and not Tâli-kettu Kalyânam. The former makes the *girl* and the latter the *Tâli* prominent. Tâli-kettu seems to be a newly-coined expression.

12. As to who should tie the Tâli, depends upon the customs of particular castes. In some castes none but an Enangan (a man of the same caste as the girl, who is competent to marry her) can tie the Tâli, while among others, according to their caste custom or usage, a Brahman, Kshatriya, Sâmantan or other caste man may do it. The man that ties the Tâli is, in Malayalam, called *Manavâlan*.

13. As far as I know, it is not the custom, generally, for one and the same person to tie the Tâli for a number of girls. But the custom is found among certain castes, for whom a Brahman or a Kshatriya ties the Tâli. It is difficult in some parts to get as many Brahmans, or Kshatriyas as there are girls, to undergo the ceremony. Hence, the custom is the result of necessity, and not one sanctioned by our early law givers.

NOTE.—I know one instance in which a Rajah having to send a Kshatriya Tirumulpad to a certain Nayar family for this purpose, deputed an Embranthiri Brahman in the guise of a Tirumulpad

14. The man that ties the Tâli, does not thereby obtain a right to cohabit with the girl. The reason is plain. The man that is competent to tie the Tâli by reason of his caste, may not be so by his position in other respects. He may be a poor man without any recognised status in society except as a casteman. This makes it inevitable that he should not be allowed to marry the girl for whom he merely performs a ceremony.

15. There is no prohibition to his afterwards forming Sambandham with the girl.

16. I have personally known of instances of such Sambandham.

17. When the man who tied the Tâli dies, there is no pollution, properly so called, to the girl. But as far as I know, among certain classes, the girl bathes on hearing of his death as symbolic of a belief, that she has by his death, contracted pollution which is removed by at once bathing.

18. To the best of my knowledge, in no part of Malabar is the Tâli tied on by the girl's mother instead of by a man.

NOTE.—Among Nambudiri Brahmans, the father sometimes ties the Tâli.

19. Every Marumakkathâyam girl must undergo the Tâli-kettu ceremony before reaching the age of puberty. There is much more than custom to be pleaded in justification of this. I have elsewhere stated that the Tâli-kuttu Kalyânam does not differ, in any essential respect from the marriage ceremony among other Hindus. All available evidence unmistakably points to the conclusion that the Kettu Kalyânam is in intention, if not in effect, the actual marriage ceremony as among other Hindus. With one exception, there is little difference in the ceremonies, that exception being, that while the Brahmans recite the Vedas and Mantrams, we are compelled to substitute for them what is called Brâhmini Pâttu (song by Brâhmini). In singing her songs, the Brahmini must regulate her voice so as to make it harmonise with the tune in which the Rig Veda is recited; or, in other words, she should sing her songs in Rig Veda *swaram*. The Brahmans alone being privileged to recite Vedas and Mantrams, it was ruled that for other classes, the Kshatriyas and Sudras, the Brahmini pâttu, sung in *Veda swaram*, would be a sufficient substitute. From the time when Kettu Kalyânam came into existence in Keralam, the Brahmini pâttu has also been in existence. The following are some of the verses recited on the occasion of Kettu Kalyânam; and they will show that the Tâli-Kettu-Kalyanam, is not such a meaningless ceremony as has been vulgarly supposed:—

*1. "The weaver has spun the white and red threads, and in the wedding-pandal the Veda Brahmini has twisted them into cords. She has bound them as an armlet on the right arm of the virgin (saying) "May the thread be your constant light and may you live a hundred years in the enjoyment of married life. May the possession of husband and happy children be yours. May you have children as numerous as paddy counted, and life for years as numerous as rice counted."

*2. "The Pandal has been six months in building and the Kettle drums announce (the festival). There is a banquetting hall and a bed-chamber. The *Māla* is put around the neck of the sweet-voiced damsel, and as *they* lived there happily as husband and wife, so let these live here long in the enjoyment of happiness."

The above lines all speak of the preparations for marriage, the union of the bride and bridegroom, their happy married life and so forth. The concluding lines in the first, express the wish that the bride may long enjoy conjugal happiness, that a number of children be born to her, and that she may live long. Those in the second are to the effect that as Rama and Sîta (in *Râmâyanam*) lived happy there after their marriage, so may this couple here live long and happy. It must be noted that among all higher caste Hindus, the marriage ceremony is divided into two parts, *viz* (1) that in which the religious ceremonials form the chief feature, and which is known as betrothal, and (2) that which is popularly known as consummation. As among other Hindus, so among Marumakkathâyam followers, the first part which is more important from a religious point of view than the second, must be performed before the girl shows the first signs of menstruation, since in default, the girl becomes subject to excommunication; and no girl can be married before the performance of this ceremony. The second or the consummation ceremony among Hindus in general, may take place either on the 4th day after the religious ceremony, or on any other auspicious day selected afterwards. The same is the case among the Marumakkathâyam followers. It will hence be seen that the only difference between Marumakkathâyam men and other Hindus in respect to the marriage ceremony is, that while the latter perform the ceremony after selecting a husband, and postpone the union of the couple for a future date *i. e.* when the girl attains puberty the former perform the ceremony first, and select the husband (in the large majority of cases) only on the second occasion *i. e.* when the girl is fit to be united to her husband. The *Manavâlan* in the Tali-kettu ceremony, merely performs a vicarious part for the future husband. But when a husband is ready to hand, it is not unusual for the girl to be actually married on the occasion of the Tali-kettu. The reason for this departure from the ordinary Hindu custom, seems to me to be, that our early law givers, in view of the scarcity of men and the consequent difficulty of securing a husband for every girl before puberty, and the danger of girls being out casted in default, devised this happy plan: to allow every girl to be married, in a sense, with the necessary religious ceremony, and to enable her to remain unmarried for life without being subjected to excommunication from caste. This view receives much support from the fact that the Nayars were, till the British advent towards the close of the last century, a great fighting race, and that they often lost lives in their frequent wars with the neighbouring principalities and tribes. Nor is this the only Hindu custom in regard to which the letter of the law has been closely followed without a corresponding adherence to its spirit. Among the Nambudiris, who are admittedly the holiest and purest of Indian Brahmans, the women are allowed to

*NOTE.—Verses translated by the Commission.

remain unmarried for life without being excommunicated, and as if to make tardy retribution to women who die unmarried, the corpse cannot be burned till a Tâli string is tied round the neck of the corpse, while lying on the funeral pile by a competent relative (vide Logan's Manual page 127). Similarly in other Hindu customs also it will be found that while the letter of the law is strictly adhered to, the spirit is sometimes lost sight of or is not observed.

20. After Tâli-kettu kalyânam, when a girl desires to consort with a man further formalities are necessary. The guardians and relatives of the bride and bridegroom, having, after the examination of the horoscopes of the parties, satisfied themselves as to the position of the stars and the suitability of the match, proceed in consultation with the astrologer to appoint an auspicious time and day. When the time has been fixed, friends and relatives are informed of, and invited for, the ceremony. Just before the appointed time, a large number of people gather at the house of the bridegroom who then proceeds to the house of the bride, accompanied by all those who have gathered as his friends, relatives and followers. The procession arriving at the bride's house, a large banquet is held, and the bridegroom then gives Dakshina to the Brahmans who generally assemble in large numbers. This having been done, we proceed to a separate room, generally the *sanctum sanctorum* of the house, where the bridegroom presents to the bride (according to local custom) either a pair of cloths or *Thâmbûlam* (betel and nut) with fire to witness. These, briefly, are the formalities necessary for the consummation of the marriage. The next day, betel nut and sweetmeats are sent to all neighbouring houses.

21. When a Nayar lady forms Sambandham with a Nambudiri, the same formalities are observed as when the husband is a Nayar. As for Pattars, it is not customary for respectable Nayars to allow them to form alliance with their women. Even among the lower classes, as Mr. Logan says, it is only when nobody else can be found, that a Pattar is admitted. The Malayalam language has even a proverb to that effect:—ആരമില്ലെങ്കിൽ പട്ടറ ഏതുമില്ലെങ്കിൽ താള “If there is none (to wed), then a Patter; If there is nothing (to eat) then greens.”

NOTE.—the word “Sambandhakâran” used in this question is used mostly by the vulgar. The respectable classes, as far as I know, seldom use it except perhaps jocosely sometimes.

22. The essentials of the formalities attending Sambandham are the same in North and South Malabar, with this difference, that in some parts, Tâmbûlam, or money is substituted for clothes. Parts of the Palghaut Taluk, which stand half-way between Malayalam and Tamil country, and which have contracted many of the practices of the latter, are however, unique in one respect. They call their Sambandham, Kedakkapara, and the formula recited on the occasion is, that the man may come and go for six months, meaning of course, that if the parties agree within these six months, they may continue for life as husband and wife.

23. A woman cannot have Sambandham with as many men as she pleases at the same time. One man for one woman is the rule.

NOTE.—I beg to observe that this question is not at all warranted by anything connected with the Nayar marriage custom.

24. Certainly this is prohibited. The best authority for the prohibition is the custom itself of the people. If more is wanted, I can quote from authentic popular Malayalam literature any number of passages. For example:—

* (1). "Wherever there is a man he wants a woman to look after him."

* (2). "Those who abandon their husbands will meet with great danger and infamy."

* (3). "It is better to have no wife than have one whose words you give way to."

* (4). "He who has no servant : he who has no wife : he who has no son : these are poor indeed."

In none of the above is it stated that a man is to have more than one woman or *vice versa*. On the contrary, it is expressly stated that one man must have one woman.

25 A woman is not allowed to terminate the Sambandham if she wishes to do so. She must have sufficient cause for it, and must satisfy her relations and society that she has sufficient cause.

26, The formality that is common to all parts is, that the woman's and her husband's relatives and the elders of the Desam should be informed and convinced of the causes of the difference between the parties, and there should also be an open declaration of the dissolution.

27. A man cannot have Sambandham in more than one house at the same time.

21. If he chooses, his Tarawad people and society will not recognise it as Sambandham. No woman, or Tarawad of any status, would consent to such an alliance. Women for the purpose can be found only among prostitutes and outcasts.

22. During Sambandham, the woman sleeps and takes her meals in her husband's house while she lives there, and in her own house at other times.

30. The custom is not the same in North and South Malabar, inasmuch as in the North, the woman lives more frequently in the husband's house.

31. According to recognised custom, the man should support the woman and her children, with the only exception that while the latter live in their own house the husband ought not to pay for their meals.

32. It is not the custom to change Sambandham frequently. In 999 cases out of a thousand, it is the rule for one man and one woman to cleave together for life.

33. If a woman lives with her husband in his house, and bears him children, unquestionably, he does feed and clothe them.

34. If Anandaravns work for the Tarawad, the Karanavan gives them all personal expenses. They sometimes cultivate Tarawad land for a rent. In such cases, they are permitted to deal with the surplus, if any, at their pleasure. But every Anandaravan is expected to contribute his mite to the Tarawad.

35. The Anandaravans generally work for the Tarawad and for themselves. In rare cases alone, they earn something for themselves.

36. Where they, and not the Tarawad, support their wife and children, they do so only with a portion of their earnings. A substantial portion, they either make over to the Tarawad, or earn for the sake of the Tarawad.

37. This question assumes that there is a right called Putrâvakâsam. Such a right does not exist. All that the word indicates is, that which the father gives to

*NOTE.—Malayalam proverbs : translated by the Commission.

his children during his life time. Property so given is called, both in North and South Malabar, *Putrâvakâsam*.

38. There is the greatest objection to "providing a form of permissive marriage Law for Nayars." The proposal in the first place makes the gratuitous assumption, which every true Nayar must indignantly deny, that we have no form of marriage at present. Secondly, it casts a stigma on those who cannot, or do not follow it. Thirdly, it will injuriously react upon the community by creating followers of different and conflicting laws in the same family. Fourthly, an optional law is the least fitted to bring those, for whom it is really needed, within its operation.

39. My answer to the preceding question renders it unnecessary for me to answer this.

40. "The conditions of valid marriage mentioned in the margin" differ from the *Sambandham* recognised in practice.

(1). No difference.

(2). With regard to man, the age limit agrees. But as regards the woman, the age limit is 12. Although these are the respective minimum age limits, marriage does not generally take place at such an early age.

(3). Even beyond the age limit given here, it is customary to obtain the consent of the *Karanavans*.

(4). No difference.

1st Proviso.—This is against the rules of caste.

2nd Proviso.—All those who are descended from a common female ancestor, however remote, are prohibited from marrying one another. Other prohibitions are in regard to the wife's sister, a brother's wife's sister, an uncle's wife's sister, a brother's daughter, father's sister, daughters of paternal uncles &c.

41. I need make no suggestions other than what are indicated in my answer to the preceding question.

42. Reasonable grounds for dissolution of *Sambandham*, according to social usage are:—(1) Adultery; (2) Desertion for one year without cause; (3) Excommunication from caste; (4) Change of religion.

NOTE.—Even desertion for one year is not generally regarded as sufficient cause.

43. The existing usage as to the maintenance of Nayar wives and their children is as follows:—So long as the wife and children live in the husband's house, the latter bears all their expenses. But when they live in their own house, the husband does not pay for their meals. All other expenses are borne by him, or his *Tarawâd*, as if they were living in his own house.

44. I have answered this question separately.

45. *Sambandham* sometimes takes place between Nayars in British Malabar and those living in Cochin and Travancore.

MADRAS,
18th May, 1891. }

C. KARUNAKARA MENON, B.A.

To.

H. M. WINTERBOTHAM ESQR.

Collector of Malabar on special duty.

Sir,

For various reasons, I have thought it necessary to answer the 44th question separately. If I answer (b) and (d) in this, I shall have, in effect, answered the whole. The proposals under the two heads virtually amount to this, that the wife and children shall, at one and the same time, be members of two distinct families, retaining the old right in the one, and possessing a new right in the other—a phenomenon to which a parallel can hardly be found in any part of the civilized world. The issues herein involved are so serious, and at the same time so far-reaching, that no thinking man can fail to perceive in this the most important and the most consequential feature of the so-called marriage Bill. If the Hon. Mr. Sankaran Nayar had brought forward an Inheritance Bill or, according to his own notions, a Bill to provide a form of inheritance for Marumakkathâyam Hindus, the question would have assumed an entirely new aspect. I say “to provide a form of inheritance” advisedly, because Mr. Sankaran Nayar could have maintained more correctly that we have no inheritance than that we have no marriage. Among Marumakkathâyam Hindus, there is no inheritance properly so called; the only right which a member possesses being the right to be maintained, a right created not by reason of the death of any one—in which case, it could be called inheritance—but by reason of the birth of himself into the family. Mr. Sankaran Nayar not only contemplates the transference of the devolution of property from one line to another, but also goes on to create in favour of wife and children a claim, which the sisters and nephews, and, for the matter of that, all Marumakkathâyam Hindus do not enjoy, and have at no time enjoyed. Put plainly, the Hon. gentleman attempts to kill not two, but three birds, at one shot: (1) to provide a form of Christian marriage for Hindus, (2) to create a new form of inheritance, and (3) to transfer the line of succession from sisters and nephews to wife and children. The admirable ingenuity which compressed this stupendous scheme within the limits of an apparently harmless marriage Bill, did not however, take into account, a very inconvenient question which must necessarily arise for settlement. I must, in all seriousness, ask whether “a Bill to provide a permissive form of inheritance” will not secure all that Mr. Sankaran Nayar aims at. A Bill declaring that the devolution of one’s property will be, not as heretofore to sisters and nephews, but to wife and children, will secure a legally recognized status to the latter in the same way as by the Bill under consideration; and any other rules that may be necessary for the regulation of conjugal relations may be incorporated in the same (i. e., assuming that divorce is necessary). Why Mr. Sankaran Nayar should not have followed this direct course, is not clear to me. The fact that he has tacked on this important question of inheritance to a marriage Bill, does not relieve the Legislature of its responsibility to decide whether it can entertain a Bill to provide a special form of optional inheritance to any section of the Indian people; for that is the main issue involved in the measure, and must be settled one way or the other. If the Legislature be of opinion that it is expedient and possible to allow a few people to have a permissive form of inheritance, there is hardly any necessity to institute an expensive enquiry into the whole social system of the people. Mr. Sankaran Nayar has simply to be asked to put his Bill in the converse form, that is to say, in the form in which it will not mislead people, but make its real object prominent and

plain. Put in this form, the Bill is freed from many difficulties which now beset it, and the only question to be settled will be one of principle. If a few men avail themselves of a permissive form of inheritance, which the Legislature grants them, and they thereby enable their wife and children to inherit to them, the others cannot reasonably complain that their customary marriage is being indirectly invalidated or declared illegal. How far the principle of permissive inheritance is sound, and conducive to public interests generally, I need not here consider. (I have discussed it in my pamphlet published last year.) But I may be permitted to point out its revolutionary effect on one of our most cherished institutions, which has hitherto preserved the individuality of the Kerala race. The Marumakkathâyam system, which to foreign eyes may appear strange, is a natural and angled (*sic*) growth. Under it has sprung up and flourished a wealthy aristocracy and a well constituted middle class. In fact, we owe to it much more than the English people owe to their Promogeniture. The Tarawad property being merely the accumulated earnings of individual members, a law declaring the devolution of individual earnings in another line, will be a direct attack upon the Marumakkathâyam system. If the Legislature is satisfied, that the Marumakkathâyam system is so mischievous that there is sufficient warrant for so violently disturbing it, it is certainly entitled to do so. But then it is also incumbent on it to remove dangerous uncertainties, and provide against a possible conflict between different claimants. The law may easily make arrangements for the disposition of property, but it cannot so easily regulate family affections, and family practices. To the Kêralan, the Tarawad is a centre of the strongest attachment; and it is impossible to make him feel, that he is a being separate from his Tarawad. The man that is capable of earning money first directs his attention to the improvement of the Tarawad, and not to the promotion of his personal happiness. Even Mr. Sankaran Nayar, if he gets a short holiday, would run up to his Tarawad. That being so, we can more or less imagine how far Legislation will change the instinct, and sense of duty, of a nation. The men live and secure their earnings, whether in money or land, in their Tarawad, and by the proposed law, during their life time, their wife and children may remain quiet, but on their death, the latter must exercise their new right of inheritance; and this means an unavoidable conflict, before the law courts, with the Tarawad. Indeed, if every Nayar early separated himself from his Tarawad, and lived alone with his wife and children, like the Chalyans (weavers) of Malabar, much of the objection on this score, would disappear. The Chalyans are, in the eye of the law, Marumakkathâyam followers, but in their daily life, they resemble Makkathâyam men. Being mostly poor, they have no Tarawad; but a man takes a woman to wife and lives with her for life, attending to their common daily avocations, and participating each in the other's sorrows and pleasures. The little property that the man possesses, he settles in the names of his wife and children; and on his death there is nothing left for his legal heirs to claim. For them, such a law as Mr. Sankaran Nayar proposes would be harmless, and perhaps desirable. But for such a people as the Nayars, with their complicated Tarawad system, and family instincts, the new law would prove simply mischievous. The time may perhaps come when the Nayar will be in the condition of the Chalyan, in regard to his family relations; and then, and not till then, can Mr. Sankaran Nayar's new-fangled ideas be forced upon the people with any advantage. As it is, a family distinct from the Tarawad, is unknown to the Marumakkathâyam follower; and any one that now acts like the Chalyan disregarding the interests of his Tarawad, subjects himself to much popular odium, and is an object of universal contempt and ridicule. Popular feeling and popular practices

being what they are, it seems to me wiser and more beneficial to public interests, to abstain from any Legislation of the kind contemplated. Even in the present state of the law, we occasionally hear of cases (more particularly in Palghaut) where the Karanavan of the Tarawad having made over to his wife and children property which is not acquired by himself, his sons and nephews resort to the Law Courts to settle their disputes. Be it remembered that the Karanavan alone is competent to deal with the Tarawad property in this fashion. If such litigation could arise when the sons have no legal right to anything except what their father gives them during his life time, we may easily imagine what the result will be when a similar dispute will have to be settled between the sons and the nephews, after the death of every member of a Tarawad, who takes advantage of the proposed Law. The only instance of such a mixed system of inheritance, as is involved in Mr. Sankaran Nayar's Bill, is found among a few Mappillas on the coast; and the fate of the Nahas and Marakkars of Parapanangady, which is perhaps better known than any other, should ever be an awful warning to the advocates of mixed inheritance. It was more than 15 years ago, that a member of the Marakkar family died; and the celebrated riot which immediately followed, the sons and nephews of the deceased taking opposite sides, will be remembered with no little misgiving by the District authorities who administered the country at the time. The contending parties, however, got out of the Criminal Court, only to try their civil remedy; and up to the present time, they have been engaged in the same business, with the result that the Marakkar family now stands as an example of past greatness ruined by a mixed inheritance.

When I consider the other aspects of the provision, certainly it does not become more acceptable. It is laid down that if either a husband or wife die intestate in respect of any of his or her separate property, the said property shall devolve on the survivor and children in equal shares. How far the division of property here indicated will injuriously affect the interests of the country, becomes evident when we remember, that few people in Malabar possess any property except in land. Such is the instinct of the people that even the poorest, who manages to scrape together a few rupees, invests them in land in some form or other; and the result is, that almost every man can boast that he has a land and house of his own. If the division of property contemplated by Mr. Sankaran Nayar were in operation in Malabar, there cannot be any the least doubt, that landed interests would be nowhere. Endless division of landed property has, before now, been condemned by political economists; and ordinary common sense is enough to see that they are right. Malabar is essentially an agricultural country without the Zemindary system based upon Fromogeniture; and this makes the gravity of the measure still more clear.

It now remains for me to consider the religious aspect of the question, which cannot be disregarded or ignored without serious consequences. It is perhaps not necessary to go into the origin of the Marumakkathayam system of succession. The system may have been either a natural growth, or the work of Parasu Rama, who is said, and generally believed, to have reclaimed the country from the sea and settled it with inhabitants from Aryapuram. For our present purpose, it is enough to realise that, in spite of all uncertainties of origin, Marumakkathayam has a sound religious basis. The present religious observances of the people are the result, not a little, of the religious reformation inaugurated by Sankarachariyar in the first year of the Kollam era followed on the coast, that is, about 1066 years ago. In that year were promulgated the sixty-four peculiar rules of observance for Keralam, known as Kêrala

Anâchârams. Whether these rules, were the original work of Sankarâchâriyar, himself, or were the mere codification of the law that had already been in existence, it is not perhaps now possible to say. If the popular belief, that Parasu Rama was the author of the Marumakkathâyam system be well-founded, then, indeed, those rules which relate to inheritance and religious ceremonial must be much older than the period of Sankarâchâriyar. Of the 64 rules, of which a translation is given in Mr. Logan's Manual, Pages 155, 156, 157, the 61st lays down that "Ceremony is to be performed in honor of an uncle," and the 62nd, that "the right of inheritance goes towards nephews." In these we find a clear confirmation of the principal of Hindu Law, which recognizes inheritance as the co-relative of religious duty. The Legislature is now asked to quietly transfer the right of inheritance from the nephew to the son, without minding whether it has a corresponding right to transfer the key of spiritual salvation. If it cannot do the latter, then certainly it cannot do the former. The Marumakkathâyam follower is bound to perform religious oblations, not only in honor of his immediate ancestor, but in that of one and all his ancestors who may have at any time gone over to the majority. All those who are descended from a common female ancestor, though belonging to different Tarawads without right to inherit, are entitled to perform religious oblations, to one another in consideration of a contingent right to inheritance, which may arise on a family becoming extinct. If the family in which A is born becomes extinct, and such cases are not rare, all the branch families, have an equal right to perform religious rite, and offer the funeral cake to the deceased members of A's family and, in virtue of the performance of such ceremony, to inherit his family property. Sexual connection between members of families, which are so related, is incestuous, and in this respect undoubtedly the Marumakkathâyam follower has fully respected the injunction of Parasu Râma, that the mother is a thousand times more sacred than the father. As I have already remarked, this so-called marriage Bill involves issues of the gravest character, and in my humble opinion, it is imperative that the Commission should direct its attention more to the incidents of inheritance than to those of marriage.

I have the honor to be,

Sir,

Your most obedient servant,

MADRAS,

18th May 1891. }

C. KARUNAKARA MENON, B. A.

MARUMAKKATHĀYAM MARRIAGE COMMISSION.

EXTRACTS FROM ANSWERS TO INTERROGATORIES

BY

M. R. RY. K. ERESHA MENON, AVARGAL,

SECOND GRADE PLEADER,

PARAPPANANGĀDI.

11. Tālikettu Kalyānam is a marriage ceremony almost similar to the marriage that obtains among the Nambudiri Brahmins of Malabar. First, castemen and relatives are invited to a feast. After their meals, a lamp is lighted and on examining the horoscope an auspicious day (Mūhūrtham) is fixed for the ceremony. A list of things required for the Kalyānam is then prepared and the Kalyānam days are fixed. This ceremony is called "Samayam Cheyyuka" (fixing time).

(2) The next ceremony is "putting rice in the hand and keeping inside." For this the girl is accompanied by her relatives and castewomen, and after bath she is bejewelled and made to sit in a room upon a blanket covered over with cloth. A lighted lamp, "Ashtamangalliam" (eight auspicious articles), "Pūrna Kumbham" (a vessel full of water) and "Nirachuveppū" (a measure full of rice or paddy) are kept by her side. A Brahmini, with a few of the girl's castewomen, then enters the room and offering prayers to God, places a looking-glass, a flower and "Akshatham" (a pigment of rice, saffron and lime &c.) in the girl's hand. She then begins to sing.

(3) The castewomen next lead the girl and the Brahmini to a well, and after keeping the "Pūrna Kumbham" (the vessel full of water) and "Kuruthi" (water coloured with saffron and chunam) near the well, go round the well several times. The Brahmini then sings some songs, and taking the "Kuruthi" (water coloured with saffron and chunam) waves it over the girl's head and after washing her with water taken from the "Pūrna Kumbham" (vessel full of water), puts a bracelet on her arm.

(4) The women in the girl's family, with vessels containing rice, flower &c. in their hands come to the yard, accompanied by the girl and the Brahmini, and there offer prayers to their guardian deities.

(5) The Brahmini then makes the girl worship the sun with the persons above mentioned.

(6) On the day of the tāli-tying ceremony the girl is dressed in a double cloth called "Mantrakoti," and covered over with another double cloth.

A pandal on four supports will be erected at the spot where the tāli-tying ceremony takes place and after decorating it, a lamp, "Ashtamangalliam" (eight auspicious articles) "Pūrna Kumbham" (a vessel full of water) and "Nirachuveppū" (a measure full of rice or paddy) are placed in it.

The "Manavālan" who ties the tāli messes with some of his castemen in a neighbouring house. This ceremony is called Ayini ūnū" ആയിനി ഉറുണം.

After this is over the Manavâlan is escorted by many people to the girl's house, and the girl's brother washes his legs and gives him a seat in the pandal. He then takes the girl, and going round the pandal, places her by the side of the 'Manavâlan'. A book treating of the marriages of Gods is then read, and the girl's relatives and castemen make many gifts to the Brahmins. This is done at the expense of the girl's father. At this time, only fellow castemen, and people of a higher caste are permitted to attend.

After this is over the tâli is tied round the girl's neck, and she is taken into the house by her castemen.

(7) The next ceremony is the 4th Kalyânam. The girl is decorated and taken to the temple with the "Manavâlan," and after offering prayers to the Gods she returns and takes her meals in the pandal with the "Manavâlan," and her castemen. Then the cloth, spread over the seat occupied by the "Manavâlan" at the time of the tâli-tying ceremony, is divided and a piece of it is taken by the "Manavâlan" while the other piece is given to the girl, as an indication of the severance of their marriage ties.

12. Brahmins, Kshatriyas, Sâmantans, or fellow castemen, ought to tie the tâli. They are called "Manavâlans".

14. No. This is owing to the severance of their connection by dividing the cloth between themselves on the 4th day of the kalyânam.

38. The present system of marriage is a very valid one, and is practised from a very remote period. I do not think it necessary that a law should be framed altering the system.

40. It differs a good deal. By this system of marriage, Marumakkathâyam will practically be changed into Makkathâyam. The present system of marriage is not so bad as to discard Marumakkathâyam altogether.

The Nayars of Malabar are divided into several castes of which men of the lower castes cannot form Sambandham with women of the higher caste. This rule is affected (by the proposed law).

(Signed). K. ERESHA MENON,

Second Grade Pleader.

(True translation as near as may be).

H. M. WINTERBOTHAM,

Collector on Special Duty.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. A. ACHUTHAN SOMAYAJIPAD AVARGAL,

ALANGAD AMSHAM, PONNANI TALUK.

Nambûdiri Landlord and Vaidigan (man learned in the Vêdas)

1. Yes. Amongst Nâyars and higher castes, a man of a higher division can have Sambandham in a lower division.
2. The same liberty is not accorded to a woman.
3. In some cases, Sambandham between different divisions is forbidden.
e. g. Kiriyañil, Sudran, Charnnavan, Pallichân, Vattekkâtt and Athikkurissi.
4. It does subject them to social penalty ; they will be kept aloof from the other members of their own society.
5. Such a Sambandham can be validated by a Prâyaschitham.
6. Kôrapuzha.
- 9 and 10. To the North of Kôrapuzha and to the South of Aleppie river there are no Brahmans who perform the Yâgam and kindred ceremonies ; therefore high caste Brahman women cannot travel beyond these boundaries and consequently the Sûdra dependents too, of these Brahmans are prohibited from going further than the two limits.
11. *Tâli kettu Kalyânam* is the way by which marriage (mangalyam) is effected among people following the Marumakkathâyam Law.
12. A male member of the society and caste (to which the girl belongs) ties the Tâli. *Manavâlan* is the name generally given to such men.
13. Yes.
14. The man who ties the Tâli does not thereby obtain a right to cohabit with the girl. It is because the law of chastity is not in force.
15. Though there is no right, yet there is no prohibition to his afterwards forming Sambandham with the girl.
16. No.
17. There is no pollution to the girl.
18. The Tâli is tied on by the girl's mother only on very rare occasions.
19. No.
20. No formalities are necessary.
21. No.
23. She may if she pleases.
24. This is not prohibited.
25. A woman can terminate the Sambandham if she wishes to do so.

26. No.
 27. Yes.
 28. No ; there is nothing to prevent it.
 29. In her own house.
 31. No.
 32. A man can act as he likes in this matter.
 33. He simply clothes them.

34. No allowance is made to the Anandaravar by the Kâranavan. They often cultivate Tarawâd land for rent and in such cases they are permitted to deal with the surplus if any, at their pleasure.

35. Both the customs are in vogue.

36. They hand over their earnings to their Kâranavan.

38. (1) In chapter 48 of Kerala Mâhâtmyam, Parasu Rama ordains that in Malabar all castes below Brahmans should follow only the Marumakkathâyam Law of inheritance ; and therefore that ordinance of Parasu Rama should be strictly followed.

(2) Moreover it has been ruled both by Parasu Rama and by Sankarâchâriar that the Hindu Nayars should be subservient to Brahmans, and it has been so done ever since.

(3) Brahmans are to perform rites and thereby (are to) protect (everything). But these rites cannot be duly performed without the assistance of Sûdras. To ensure this, the above named persons ruled that the Marumakkathâyam Law should be followed by the Sudras. If in opposition to this, Makkathâyam Law comes to be observed by the Sudra Nayars of Malabar as proposed now, they would render themselves unable to perform any service to the Brahmans who, as well as Malabar, would suffer thereby. It will be found very difficult in practice, and greatly opposed to the welfare of the people at large, to follow the system proposed by one learned man in contravention to that laid down by the above said Parasu Rama and Sankarâchâriar ! who knew so little of the Puranas !

(Signed) A. ACHUTAN SOMAYAJIPAD.

(True Translation as near as may be)

H. M. WINTERBOTHAM.

Collector on Special Duty.

EXTRACT FROM
ANSWERS TO INTERROGATORIES

BY

M.R.RY. VALLÛR MANAKKAL VÂSUDÊVAN NAMBÛDRI AVARGAL.
(NAMBÛDRI LAND-LORD), WALLUVANÂD TALUK.

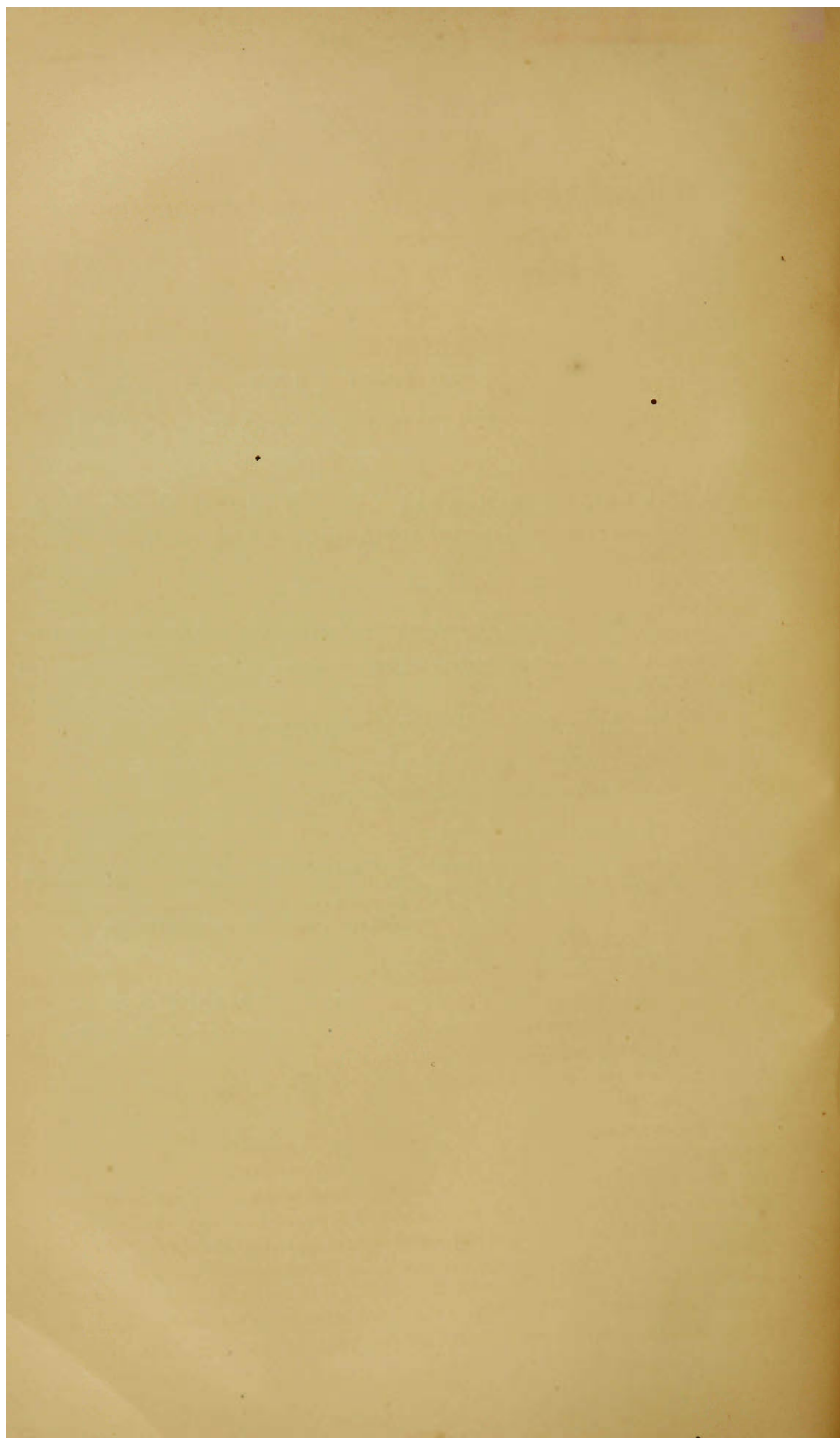
20. There will be a feast suitable to the condition of the Sambandhakkâran.
21. When a Nambûdri, or a Pattar, begins a Sambandham feasting is not customary.
23. Although it is improper it is being carried on.
24. There is no support for it but the custom of the country.
25. She can terminate the Sambandham.
26. There is no formality.
33. There is no objection to passing a marriage law if it is in such a form that it will not dissipate joint property.

(Signed). VÂSUDÊVAN NAMBÛDRI.

True translation as near as may be.

H. M. WINTERBOTHAM.

Collector on Special Duty.



Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. C. RAMUNNI MENON AVARGAL, B. A.,

SUB-REGISTRAR,

TIRURANGADI.

1. The Kiriyaatil Division alone of the Nayars, enjoys the liberty of forming Sambandhams among the lower divisions of Nayars. Among the other divisions, superiority of caste does not carry with it a privilege of forming Sambandhams in all lower divisions alike.

2. The Nayar women of the higher castes cannot form Sambandhams with the men of the lower divisions.

3. Sambandhams between the several co-ordinate divisions are forbidden; i. e., Sambandhams between the Chârna and the Sudra divisions are not generally allowed.

4. Sambandham of such a kind subjects the woman to some social penalty. The penalty most generally inflicted is, that the woman and such of the members of her Tarawad as live with her in the same house, are not invited to be present at the houses of her fellow-castemen on occasions of important domestic ceremonies; neither do the latter attend at her house on such occasions.

5. There is no Prâyaschittam ordained that validates such Sambandhams. Each case of such very rare occurrences is disposed of by the caste community on its special merits. The result of caste interference is that such Sambandhams are often compulsorily dissolved; and the parties to them subjected to pay some fine in the shape of an offering to some temple.

6. The boundary generally talked of is the Korapuzha river.

7. The high caste Nayars of North Malabar very generally form Sambandham in the South. The converse cases are rare.

8, 9 and 10. are best answered together, and the answer to question 10 will furnish the key for answers to the two others. I shall therefore address myself to question No. 10.

There are no specific reasons assigned in explanation of the prohibition against the crossing to the South of the Korapuzha river by the women of the Taluks that lie to the North of it. Similar prohibitions against passing beyond other specified limits are found to operate in other places in this District. Any explanation of the prohibition must be such as will satisfactorily explain all the cases. The prohibition against the crossing to the North of the Kottakatavu in the Kurumbranad Taluk by the women of the Payyormala country, (2) of the Putiyachira (പുതിയചിറ) in the Calicut Taluk by the women of the Vatakkumpuram (വടക്കുംപുറം) tract, and (3) of Karukapuzha (കറുകാപുഴ) in the Palghat Taluk by the women of the Walluva-

nad Taluk are additional illustrations of such prohibitions. The reasons for them must be looked for in the past political condition of the District; and the object must have been to confine the various tribes in the places which formed their original homes, for purposes as well of aggression as of defence. That for a number of centuries prior to the occupation of the District by the Muhammedan kings of Mysore, this District had been split into a number of petty principalities ruled over by a number of semi-independent petty chieftains who were perpetually at war with each other will, it is presumed, be accepted as a fact established on historical evidence. That among those petty chiefs the Zamorins of Calicut for some time occupied a position of pre-eminence, in point of power and extent of territory, is also another fact which will be accepted without much dispute. It is pretty well known that the Zamorins succeeded in reducing to subjection almost all of the minor chieftains of the present South Malabar, and that their dominions extended as far South as the northern limits of the present Cochin State. In the interior, the Ernad, Walluvanad and a considerable portion of the Palghat Taluk became subject to the authority of the Rulers of Calicut. While thus successful in extending their power in the South, the Zamorins did not enjoy equal good fortune in their operations in the North. To the North of the Korapuzha, the Rajahs of Kurumbranad ruled over the parts that now constitute the division of the Deputy Tahsildar of Quilandy; and in the still further North, beyond the Kuttiyâti (കുട്ടിയടി) river, the Chirakkal Rajah and his feudatory, the Kadathanad Rajah ruled over the plains. Unsuccessful as the Zamorins were in effectually reducing these chiefs to subjection, they nevertheless managed to inspire the northern chiefs with a somewhat keen dread of their power. This view of the relations between the Zamorins and the northern Rajahs is attested by the fact, that tradition while supplying numerous evidences of their hostility points to no considerable length of time during which they were at peace with one another. The relations between one among the Zamorins and a certain Kurumbranad Rajah indeed became for some time at least so far friendly that at least one Kurumbranad Rajah succeeded in getting a Tampuratti of the Zamorins's family as his bed-mate; (I use this expression for the questions do not seem to favour the expressions 'husband' and 'wife' as applied to the adherents of the Marumakkathâyam Law.) The result of this short connexion however did not in the sequel prove highly satisfactory to the Kurumbranad people, in as much as the wily Zamorin contrived to wrest a large slice of their lands from the authority of the Kurumbranad Rajah. Thus from superior strength as well as from their greater astuteness the Rulers of Calicut came to be looked upon in the North as objects of very considerable fear and hatred; and the subjects of these rulers as aliens which in those days meant enemies.

While the political tactics of the Zamorins tended to generate feelings unfavourable to them, in the minds of their Northern neighbours, the administration of their home affairs was not often carried on in such ways as to allay the intensity of the fear and hatred which their political proclivities originated. The reports of events occurring in the Zamorin's dominions must even in those days have spread throughout the whole of the District; and at times true, some times exaggerated and more often false, as the reports are likely to have been, they must nevertheless, have eagerly been listened to and believed in without much discrimination by their hearers. The northern people must have been made aware of the outrage committed under a Zamorin's orders, or at least with his knowledge, on a number of Nayar women who were locked up one night in the Kovilagam, and who for this reason were afterwards disowned by their castemen. The northern people, again, are likely to have

heard something about another event which also occurred in the South; and of which though not caused by the Zamorins, nor exactly in the territories under their immediate authority, the blame must nevertheless have been attributed to them. The second important event was also an outrage done to women; and was this time done by the new Arab settlers, who forcibly carried away some women one or two of them of very high rank too, into the bargain, and made them their wives. Such unpleasant facts occurring in the South must have made the northern people regard the Zamorin's dominions as dangerous places to live in or travel through, and that more especially for women, and as, to them such travellings or settlements were not necessary, they made the passing into the Zamorin's dominions by women an offence against society "punishable with forfeiture of caste." Partly to the apprehended dangers of settling in the territories of hostile chieftains and partly to prevent the dispersion of the people, should the reasons be attributed that have constituted to the growth of a custom the force of which has not hitherto been much impaired and of which the explanation is so hard to get at.

8. The North Malabar Nâyars of the ancient days did not know to what order of creation the Nâyars of the South belonged, neither did they trouble themselves to make any laborious researches into the matter. Moreover there was the additional difficulty that once a Sambandham was allowed to be formed, the Sambandhakkâran from the South would request that the women might be allowed to be taken to his home and thus made to cross the Korapuzha. This difficulty was insurmountable, and rather than to attempt to overcome it, the best way of dealing with it in their opinion was to evade it altogether.

11. The Tâli-kettu Kalyânam is the ceremony of first tying a Tâli or (Mangalya Sûtram) താലികെട്ടു around the neck of a girl before she attains her puberty. At present the ceremony has no meaning, but it is of some value as furnishing some evidence of the fact that the tribes among whom it now prevails, had at some past period of their history the institution of marriage by which the person who tied the Tâli became the husband of the girl.

12. Each Division of the Nâyars has its recognized caste out of which persons are chosen to officiate as Tâli-kettukâran. Manavâlan (മാണവാലൻ) is the name by which the Tâli-kettukâran is generally distinguished. But the name is not applied when a Nambûdiri or a Kshatriyan happens to be the person who ought to officiate as Tâli-kettukâran.

13. The custom is to engage as many Manavâlans as there are girls around whose necks the Tâlis are to be tied.

14. No. Foreseeing that a claim to cohabit would thereby be advanced, our forefathers so far altered the original frame work of the Tâli-kettu Kalyânam that along with the completion of the Kalyânam the dissolution of the marriage was also effected. The Manavâlan, among the Nâyars, eats his last meal as such on the fourth day, cuts into two a piece of unbleached new cloth, one end of which is held by the girl, and is forthwith sent about his business. (a) The reasons why he should not be allowed to do so would form the materials of a very interesting chapter in the history of the social organization of the Nambûdiris and the Nâyars of Malabar. Even if I had the requisite amount of ability for dealing with it I should be allowed to reserve an exposition of them for a more convenient opportunity.

15. There is no prohibition to his afterwards forming Sambandham with the girl.

16. No.

17. The Kiriyaṭṭil and the Sudra Divisions of Netunganad, Ernad and Sher-nad are known to recognize a pollution, the term of which extends to 15 days. Cases are also known where men have observed pollution on account of the death of women for whom they acted as Manavâlans.

18. The Tâli with the string attached must be placed on the neck by the Manavâlan; the mother may fasten the two ends of it.

19. Yes. It is the rule throughout the Walluvanad, Ernad and Calicut and Kurumbranad Taluks. It is said that in some of the Manapuram amsams of the Chavakkad Division of the Ponani Taluk, the practice prevails of performing the Tâli-kettu ceremony even after the girl has attained her puberty. Marriages have at all times with the Hindus formed, a part of the duties which rest on religious sanction; and the rule that the Tâli-kettu ceremony should take place before the girl has attained her maturity, is an exact reproduction of that based on Sanskrit authorities and prevailing among the Brahmans generally, of giving a girl in marriage before she has attained puberty.

20. Yes; the girl should be united with the man in the regular Sambandham fashion. The formalities gone through are the formalities incidental to a Sambandham connexion.

21. The formalities are nearly the same.

22. The Sambandham of the Walluvanad, Ernad and Calicut Taluks and the ഉവംപുറകൽ Uvam-purakal of the Kurumbranad Taluks are one and the same ceremony. In the പുടമുരി Pudamuri of the latter Taluk the girl is taken to the house of the man on the morning of the day after the ceremony.

23. The practice said to exist even now of two or three persons forming the Sambandhakkârans of the same woman at the same time, and this without evoking the disapprobation of the average members of the community among which it prevails, is in itself some evidence of the fact that such Sambandhams are allowed. With respect to the practice itself, it must be said that it is fast dying out. It is not always exactly the pleasure of the woman on which the practice is dependent. A plurality of Sambandhakkârs is often tacked on to the same woman at the express desire of, or at least with the connivance of the head of the woman's family and often against her wishes.

24. No authorities legal or religious can be cited either as commanding or forbidding the apparently very odd practices that are found prevailing among the Nam-bûdiris and the Nâyars of this District, and I am unable to say in what books such prescriptions or prohibitions are to be found. With reference to almost all of the existing practices it is my belief that explanations based on historical and religious considerations can be offered.

25. The woman can terminate the connexion, but in so doing she must obtain the consent of her relatives.

26. In the cases of a man terminating the Sambandham, proper notice must be given to the heads of the family of the woman about the intended act, and the reasons therefor must be assigned. The clothes to be given to the woman for the time are to be sent to her, and the man ceases to visit her.

27. Yes.

28. The consent of the heads of the Tarawads where he wishes to form his 2nd and 3rd Sambandhams should be obtained and this is all that appears to be necessary.

29. When the Sambandham formed is of the ഉവംപുറക്കൽ Uvam-purakal kind, the woman remains in North Malabar in her own house; and the Sambandhakkâran visits her there. She lives with the Sambandhakkâran in his house only after the പുടമുറി Pudamuri has taken place. After her പുടമുറി Pudamuri the woman lives with her man in his house throughout the greater portion of the year and visits her own house only when domestic occurrences render her presence there necessary.

30. The Sambandham of South Malabar lies midway between the ഉവംപുറക്കൽ Uvam-purakal and the പുടമുറി Pudavâmuri of the North. The woman after her Sambandham lives in her own house as well as in that of her Sambandhakkâran. When the periods of her stay in the two houses are compared, it will most generally be found that in the course of a year her stay in her own house has been the longer of the two.

31. The woman and the children she bears to her man are supported by the man during the time they live in the man's house. When they live in their own house the man need not make provision for feeding them. Live where they may, the clothing of the woman and the children is provided for by the man.

32. The Rule is for one man and one woman to cleave for life.

33. This question is answered in the answer to question 31.

34. Whether they do or do not work for the Tarawad the Anandravans have a right to be fed by the Tarawad as long as they live in the Tarawad house.

They often cultivate Tarawad lands for a rent. There is no objection to their dealing with the surplus as they please, still, Karanavans would demand contributions under alleged Tarawad necessities. The history of the rise, growth and decline of the various Tarawads would form an instructive preparatory study for the purpose of clearly understanding the relations of Karanavans and Anandravans in regard to the Tarawad property, as well as the self or separate acquisitions of the Anandravars.

35. The rule that now prevails among the members of the established Tarawads is that the Anandravars work in order that they may earn something for themselves.

36. The earnings are not handed over to the Karanavan. The Anandravans keep them to themselves investing them in land (as is most often the case). The Anandravans' women and children are supported by them out of their separate acquisitions.

N. B.—The rules stated in these answers as prevailing are what are found to exist in the present day after about ninety years' British rule in this District. The effect of that rule on the constitution and present state of the Tarawad does not form a subject of the questions now asked, and no attempt is here made to describe the effects, which have begun to have important bearings on the social history of the Malayali.

37. I am not aware that such an അവകാശം (avakâsam) is recognized.

38. It is not apparent what that weighty affair of State may be in consideration of which the Government is concerned in its own interests to provide a law for

a portion of the inhabitants of this District. It is not pretended that the peace of this District cannot be maintained unless such a measure is brought into operation, nor does any administrative difficulty appear to be apprehended for the removal of which such a measure is needful. It cannot be assumed that having secured the peace of the District and carried its administrative machinery nearly into perfect working order, the Government wishes, in the leisure which the tranquillity of the District has afforded, to see some "experiments" made so that the result of the experiment may be made available for the edification, or the improvement, of the human race. It does not appear that any strong discontent is felt with the existing state of things so that the Government is bound to take steps for its removal, nor is there any security offered that the new measure will be productive of so much unmixed good that it is desirable at whatever cost to get it introduced. Assuming these state of things to exist, I ask where is the necessity shewn for the introduction of a "permissive law." Any person who has taken care to study the social phenomena which Malabar presents will be slow to believe that the Malayalis (*i. e.*, the Nambûdiris and the Nâyars) who have admittedly attained to a pretty high state of social advancement, have not nevertheless been able to get out of the "Polyandrous state" so far as their (the Nâyars') marital relations are concerned. A knowledge of the circumstances under which a right to inherit property has come to be associated with descent from women rather than from men, will go far towards the conclusion that so long as those circumstances exist, a new law to regulate the marital relations of the Nâyars can at present be productive of only social misery far greater than what the present Law is calculated to remove. The Nambudiris and the ruling Chiefs whose influence on the Nayar society was the most considerable and most direct of all so moulded it that they made the interests of the Nayar subservient to their own, and until the force of that influence is minimized, any law for the regulation of the marital relations of the Nâyars can only work mischief to that community. The explanation and illustration of my meaning cannot be made intelligible without a statement of the social polity of the Nambûdiris of Malabar as I conceive it. To expound it here is not an easy task and I should beg to be excused from now doing it.

39, 40 and 41. I shall leave unanswered.

42. Adultery on the part of the women and loss of caste are the principal ground on which a Sambandham may be broken off.

43. The question has been sufficiently answered in my answers to some of the preceding questions.

45. Sambandhams are often formed.

If all things considered legislation should be decided upon *i. e.*, if the parties to the business would not withdraw unless they gave a law to the Nâyars, a short law, not much difficult to pass an examination, might be constituted of the clause (e) of the proposed new rights in question 44.

The bill that I would draft is as follows:—

"Every person whose personal Law is the Marumakkathâyam Law, and who is of sound mind and who is not a minor shall be competent to dispose of his self-acquired or separate property by Will."

(Signed) C. RAMUNNI MENON.

Tirurungadi,
12th May, 1891.

Marumakkathayam Marriage Commission.

MEMORANDUM

BY

J. STURROCK ESQR. C. S.

1. In ancient Tuluva (modern South Canara) it appears that all property was vested in females, and descended from mother to daughter.

2. Various theories have been put forth to account for this, but nothing definite is known as to the origin of the custom. It is however certain that it has a great hold on the people, for it has survived ten centuries of Hinduism, and even the Tulu Mohammedans adhere to it. The only important modification that has taken place is that the management of property is now so commonly exercised by males that the rule of inheritance has become known by the misleading name of "*Alia Santâna*," or inheritance by a sister's son.

3. Together with the management by males there has grown-up a practice of a wife leaving her family house to reside with her husband, and a consequent striving to benefit the children at the expense of the estate of the husband's family. This has naturally led to much quarrelling, and even crime.

4. Amongst the Tulu people, a woman retains after marriage something of the power which in European countries she exercises during courtship, and is allowed to practically divorce her husband as readily as a Mohammedan can divorce his wife, or a Hindu take a second wife without giving freedom to the first. The laws of property and inheritance are also entirely independent of the marriage laws, and this fact, together with the independence enjoyed by married women, has led English and Hindu Judges to decide that there is no marriage amongst the Tulu people—a decision which has naturally led to some heart-burning, amongst those who attach importance to English and Hindu ideas on these subjects. The great mass of the people continue to follow the ancient marriage rules, and lead domestic lives undisturbed by the fact that other people, with other ideas, consider that they are not married at all.

5. The impression formed by me during thirteen years residence in South Canara was that, amongst the higher classes, the Tulu women, who follow the *Alia Santâna* rules, enjoyed a reputation for singular fidelity, and that even the lower classes did not regard the marriage ties more lightly than their neighbours governed by other laws.

6. From the above remarks it will be understood that I think it desirable a husband should be enabled by law to assign his self-acquisitions to his wife and children, either during his life-time or by bequest, but I consider legislation with regard to the marriage relations of the Tulu people quite uncalled for. The less our legislature deals with these matters the better. There are occasions on which it is imperative to do so, but this is not one of them.

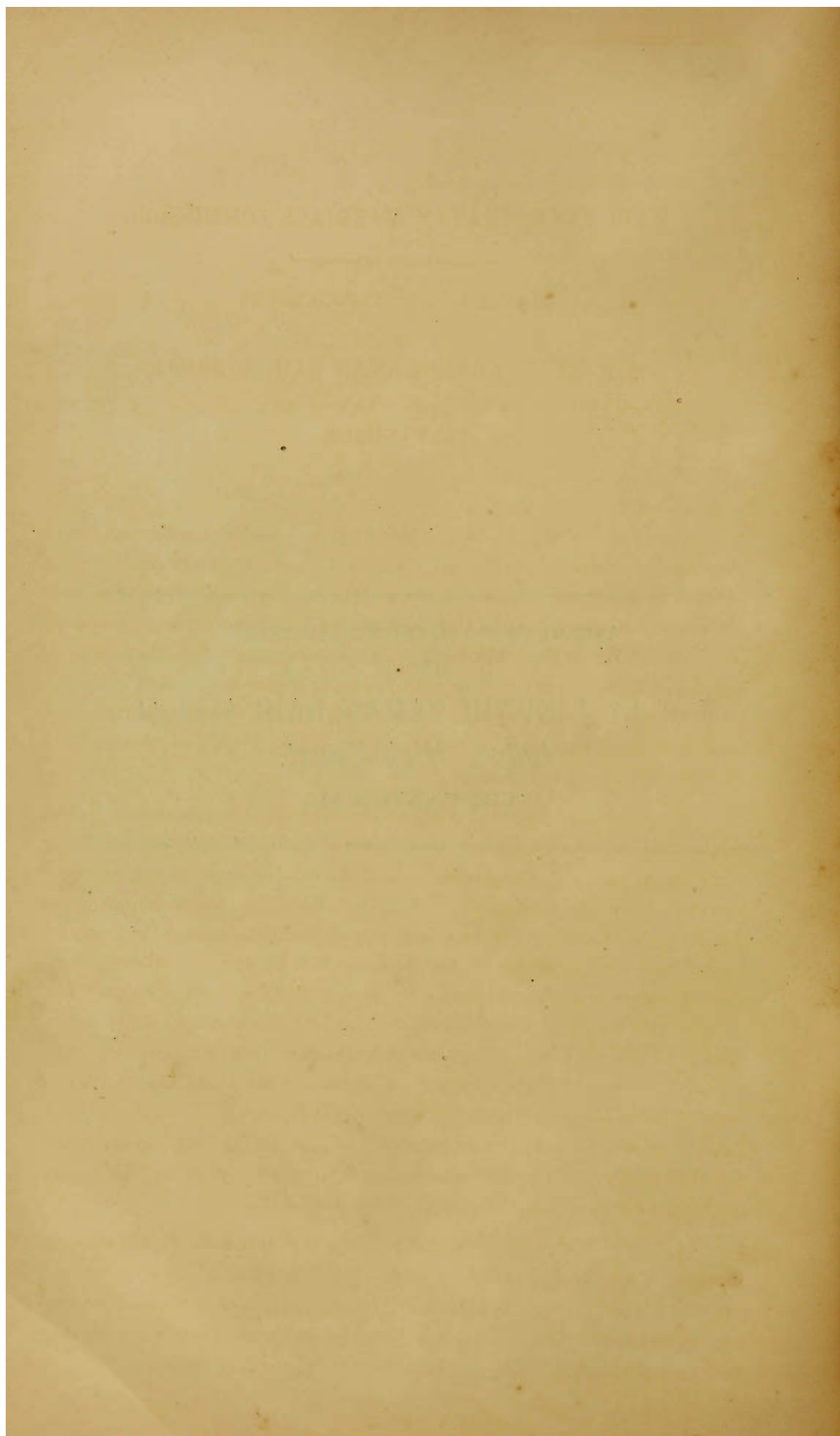
7. The stigma which our courts have indirectly thrown on Tulu marriages might perhaps be to some extent removed by an allusion in the preamble of the act about property, to the effect that amongst the Tulu people inheritance is not affected by the marriage rules. This probably would not suffice to bring Tulu marriages within all the sections of the Penal Code dealing with marriage rights, but I do not think that would matter. I do not consider it fair to say, as in the paper to which this is a reply, that the Alia Santâna customs permit any one to commit adultery with a man's wife with impunity. There are other than penal safe-guards against adultery, and I understand that these have their full force amongst the better classes of the Tulu people.

J. STURROCK, C.S.

Camp Karur, 3rd May 1891.

(NOTE.—Mr. Sturrock was Collector and Magistrate of South Canara for over 6 years, and served in the District for over 13 years)

ANSWERS TO INTERROGATORIES
BY
M. R. RY. T. KUNHI RAMAN NAIR AVERGAL,
Judge, High Court,
TREVANDRUM.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. T. KUNHI RAMAN NAIR AVERGAL,
JUDGE, HIGH COURT,
TREVANDRUM.

1. Yes.

2. No.

3. I know of no absolute prohibition against intermarriage between different divisions. Sambandham between a woman of a highest class (Purathu Chârna in North Malabar, and Kiriya in South Malabar, Cochin and Travancore) and men of other divisions (Akathu Chârna, Sudra &c.,) is however, not customary; the customary law on the subject being that a woman cannot form Sambandham, with a man belonging to a division not equal to, or higher than, that to which she herself belongs. A man may form Sambandham with the women of any division equal to, or lower than, his own, and men of the highest division do form Sambandham with women of any division.

Nayar men and women of Akathu Chârna division do not generally form Sambandham with Sudra division, though men of Purathu Chârna division, being of the higher class, do. I understand also that a sub-division of Sudras, known as Pannikot Vamsam or clan, in Calicut and Ernad, do associate with Akathu Chârna, or Akathoot Parisha, division with the permission of the Zamorin. Here, I may observe once for all, that the designation by which the different divisions of Nair caste are known, are not the same in North and South Malabar, and that there are several divisions, and sub-divisions, each claiming superiority in the social scale over the others, though the claim is not universally recognized. The two main divisions in North Malabar are Purathu Chârna and Akathu Chârna while in South Malabar, they are (1) Kiriya (2) Sudra (3) Chârnu. In the Taluq of Calicut, Chârna division is sub-divided into two (1) Purathu Chârna and (2) Akathu Chârna, the former being (unlike in the North) lower than Kiriya, or the highest class of Nairs, though higher than Akathu Chârna.

4. Yes. The woman and her progeny, if any, lose their social status as members of the division to which the woman originally belonged by birth, and become merged in that of the husband. They are not invited by their fellow caste men on festive occasions, and are not permitted to sit in the same row as their kinsmen on the mother's side, and take meals, on public occasions.

5. Such Sambandhams may be validated by a Prayaschitham though the idea is not universally accepted by orthodox Nairs of North Malabar.

6. Kora Puzha River.

7. The Nairs (men) of South Malabar are not generally permitted to form Sambandham with the women of North Malabar, though there are stray cases in which such Sambandhams have been formed, especially by those belonging to the highest class, or kiriyam, in the South. There is no prohibition to the men of the North forming Sambandham with women of the South, subject to the general rule that the man should be of a class equal to, or higher than, that of the woman.

8. A South Malabar Nair is, as already stated, not generally taken as a husband by a North Malabar woman, the reasons assigned being 1, the unwillingness of the latter to cross the Kora-puzha river, and 2, the difference in the ceremonies constituting Sambandham, and 3, the treatment generally accorded to wives and children in South Malabar, who are not as a rule permitted, as in the North, to reside in the Tarawâd houses of their husbands or father, but are obliged to live in their own Tarawâds.

For my part, however, I do not see why intermarriages between people of North and South should not be allowed, on the usual conditions obtaining in the North.

9. It is commonly said that Nair women of North Malabar may not cross to the South of Korapuzha river, but as a matter of fact numerous Nair families (high and low) of the North have in ancient times, and especially during the occupation of Malabar by Sultans of Mysore, crossed this river *en route* to Travancore. The traditionary prohibition was originally directed, not to the mere crossing of the river, but to the settlement of North Malabar women and families, in the territories of the Zamorin and other Princes in the South, except those of the Maha Rajas of Travancore, who were friendly to the Kolathunâd, or North Malabar, Rajas. I know of several high caste women of the North, who have crossed this river on their way to Travancore with their husbands or relatives. Several colonies of North Malabar Nairs are settled in North and South Travancore, and some of them residing in Mavelikara, Shengannoor &c. in Travancore, still retain their rights in their old Tarawâds in North Malabar, and form Sambandhams with women of North Malabar. The Rajas of Mavelikara, Ennakad, Tiruvalla, Arammula &c. of Travancore, still hold and possess Estates in North Malabar, and the female members of these princely houses, and their dependents belonging to the Nair class, used often to cross this river, on their way to, and back from, Travancore.

10. In olden times the chieftains of Malabar, then divided into several petty kingdoms, were often at warfare with each other, and there were fends between the chieftains of North and South Malabar. There was no guarantee at that disturbed time that the people of the South would guard the safety and honour of

the women of North, and outrages on women were probably apprehended at the time. Hence (if the traditionary account be correct,) it was decreed that females of North should not cross Korapuzha, and settle in the Territories of hostile chieftains, and I understand that similar prohibitions existed in Travancore? which like British Malabar consisted at one time of several petty States. The prohibition in Travancore has disappeared with the reason therefor, but it is retained by the North Malabareans, who are conservatives to the core. The prohibition is under present circumstances, meaningless, and the intelligent portion of the North Malabar public are beginning to regard it as an obsolete one.

11. *Tâli Kettu Kallyânam* is, as its very name implies, the ceremony celebrated on the occasion of investiture of a girl with *Tâli* (marriage badge) a small gold ornament, threaded on a cotton or silk cord, in token of the girl having attained the marriageable age, and been betrothed to some one.

The *Kâranavan*, or manager of a *Tarawâd* when he finds that there are one or more girls in his *Tarawâd*, about to attain the age of puberty, in communication with the father of the girl or girls, and other relatives and fellow caste-men, determines the auspicious day and hour for tying the *Tâli*, by consulting an astrologer. A marriage pandal, or shed, is erected, and decorated, and on the day fixed for tying the *Tâli*, the girl, or girls, are bathed with water consecrated by Brahmins, and be decked with jewels and ornaments. In some places in South Malabar, an *Enan-gen* (a fellow caste-man), in others a *Thirumulpâd*, or an *Arya Pattar* (foreign Brahmin) is invited to act as bridegroom for the purpose of tying the *Tâli*. In North Malabar, and amongst some high caste families in Cochin and Travancore, a Malayali Brahmin (*Nambudri* or *Potti*) is invited for this purpose. The bridegroom elect is met in procession and brought to the Pandal, where lighted lamps, measures containing paddy and rice, cocoanuts, betel &c., are kept. Then at the propitious moment the *Tâli* is tied in the presence of relatives and friends, amidst general rejoicings indicated by *Ârppu*, or *Korava*—a noise made by the assembled multitude; and dinner parties are given subsequently. Four days are spent in South Malabar, Cochin and Travancore, in feasting and merriment, and on the fourth day, the bride and the so called bridegroom go to a river, or tank, in procession with music, to bathe. In North Malabar, the ceremonies last only two days, and the procession for bath in the tank, takes place on the second day—on the fourth or fifth day the bride goes in procession to worship the village Deity. The details of this ceremony are not uniform, and vary in different parts of the country. In North Malabar, and amongst the higher classes in Travancore, a woman called *Brahmini* belonging to the *Pushpakan* caste, is invited to sing bridal songs at the marriage shed, in the presence of the bride and other relatives. In some places in the South, these songs are dispensed with.

The person who tied the *Tâli*, is after the ceremony, dismissed with suitable presents in money and cloth.

12. The person who ties the Tâli is called in Malayalam Manavâlan (മാനവാളൻ). It would seem that originally the privilege of tying the Tâli was confined to Enangan, called Machambi in Travancore—(a fellow caste man) but as some families assumed an air of superiority, and wanted to raise themselves in the social scale by associating with those high in the social scale, the services of Thiroomulpâds and Brahmins were preferred.

13. No. It is not an approved custom, though there are not wanting a few instances in which a number of girls had their Tâli tied on by one man at the same time and place. It is so done only in the case of poor families who cannot afford to engage the services of more than one Thiroomulpâd, or Brahmin. It is never done when the person who ties the Tâli is an Enangan, or Machambi (fellow-casteman).

14. Not. Unless he is permitted to complete the marriage by the ceremony of cloth presentation. The explanation for this anomaly, for it is nothing less, is to be sought for in the ancient political and social organization of the country.

The Malabar Sudras were in ancient times the slaves and dependents of Malabar Brahmins, whose word was law to them, and who, it is to be feared, made laws affecting the Sudras in such a way as to suit their (Malabar Brahmins) convenience, and to further their interests. The lawgivers of Malabar, though they did not think it expedient to prohibit the Tâli Kettu Kallyânam ceremony, which the Sudras in common with other Hindus had come to regard as a solemn religious ceremony, probably interpreted the ancient Smrithis in such a way as to make it appear that the person who acted as bride-groom, or tier of the Tâli, did not thereby acquire the full status of a husband until a further ceremony, that is presentation of cloth, takes place, and this second ceremony is postponed till after the attainment of puberty of the girl. On the conclusion of Tâli kettu, the bride-groom is dismissed with presents in token of the dissolution of his engagement. Here I may add that the marriage system of Marumakkathâyam Hindus, like the ordinary Hindu Marriage system, originally consisted of two processes, the betrothal and the actual marriage, and the ceremony of tying the Tâli, or Kettu Kallyânam is simply a relic of the betrothal ceremony, ordained by the ancient Smrithis, which the Sudra colonists of Kerala, (Malabar, Travancore and Cochin) wished themselves to be governed by, as the rule prevalent at the time in the land from which they emigrated to Kerala.

It is thought by some that according to the ancient Smrithis, the bride does not become a member of the family of the bridegroom on the first day of the celebration of the marriage rite, and that she does so only after undergoing certain further ceremonies to be performed on the fourth, or subsequent, day after the marriage and represented by the consummation of the marriage, (see Aswalayana-1-8-12.

Apastambha Dharma Sutra-2-6-10-and 15: Gobhila Grihia Sutra 2-3-13-2-5) Yama 8-6-(Bombay Edition Likhitha page 377) and in the state of ancient authorities there was not much difficulty in persuading ignorant people of the servile class that so long as the consummation of marriage does not take place, the tying of the Tâli confers no rights on the tier, and that the dissolution of the agreement of betrothment may be effected after this ceremony, so that the bride may be at liberty to form Sambandhams with the younger cadets of the Brahmin families, who are from sordid motives prohibited from marrying in their own caste. The dismissal of the bridegroom, or manavâlan, with presents, is also looked upon as a sort of dissolution of the tie. There is in my view, no valid reason why the tier of Tâli, or manavâlan, should not have the right to cohabit with the girl, when the proper time for consummation of a marriage arrives; and it is to be devoutly wished that some system by which the original intention involved in the celebration of Tâli Kettu ceremony can be fully carried out, could be devised. The custom has however taken so deep a root in the minds of the people, that it will take some time before the desired reforms, which must come from within, can be introduced.

15. There is not the least prohibition to the person who ties the Tâli afterwards forming Sambandham with the girl.

I have personally known of several instances of such a Sambandham in Travancore, and the practice of giving cloth at the marriage shed (പ്രാണലിങ്ക് പുടവ കൊടുക്കുക) whereby the giver becomes the real husband of the girl, is not rare in Malabar also.

In cases, where the tier of the Tâli is a fellow caste man, (Enangan or Machambi) and not a Brahmin, or Kshatria, the girl incurs pollution on the death of the person who tied the Tâli on her. The practice of observing such pollution obtains amongst Kiriyaams in Betutnad and Nedunganad, amongst Sudra Nairs attached to the Superior or Âdhyâ Brahmins in Walluvanad, Nedunganad, Betutnad, and also amongst such of the Illakâr and Swarupakâr in Trevandrum and Changanasheri, who get the Tâli tied by a fellow caste man (Enangan or machambi.)

18 In some families, who, on account of poverty or other causes, are unable to procure the services of a regular bridegroom on the occasion of Tâli Kettu ceremony, or when there had not been time to ascertain by consulting an astrologer whether the bridegroom's natal star agrees with the bride's, mothers or other relatives tie the Tâli,—an image of the Deity, or a sword, being in such cases placed in front of the bride, to represent the bridegroom, if one is not forth coming. This mode of performing the ceremony is not generally approved and may be said to be of very rare occurrence.

19. There is undoubtedly an idea that the Tâlikettu ceremony should be performed before the girl attains the age of puberty, which is ordinarily supposed to be 11 years, but the idea has no justification whatever in any law applicable to Sudras.

The practice is also not uniform among the followers of Marumakkathâyam. In the District of Changanasheri in Travancore, the Tâli Kettu ceremony is performed even after puberty, and in the Tarawâds of Thiroomulpads and others belonging to the Kshatria class, the same practice is said to prevail. The Malabar Brahmins celebrate marriages after the girls have attained their puberty and they cite a text of Manu in support of their practice. The text is as follows :—(*Translated by the Commission into English*) “A virgin may, even after the attainment of puberty, remain till death in her house according to her pleasure; but shall never be given (in marriage) to one devoid of all virtue.”

If this text could be interpreted, as it has been, to sanction marriages after puberty in the case of Malabar Brahmins, I do not see why it should not apply to Malabar Sudras who are inferior to Brahmins.

20. The ceremony of Pudava Kotukal, or Pudava-Muri in North Malabar and Travancore, and Sambandham, or Guna-Dôsham, in South Malabar and Cochin, will have to be gone through before a man and woman can consort as husband and wife. This ceremony is the real or actual marriage ceremony amongst Marumakkathâyis, and it is performed with great publicity and a degree of pomp suitable to the circumstances in life of the parties. When the Kâranavan, or the father, or some elderly member of a man's Tarawâd, or the man himself, if of proper age, has found out a suitable match for him, and if the match is ascertained to be agreeable to the guardians, or other protectors, of the girl, a small deputation consisting of the relatives and friends of the would-be bride-groom, proceeds to the house of the girl and request an examination of the horoscope of the girl, taking with them the bridegroom's horoscope. A formal examination of horoscopes is then made by an astrologer, previously invited for the purpose, and an auspicious day is fixed for the Pudava Muri ceremony. On the appointed day, the bridegroom, after getting the formal sanction of his elders, to each of whom he presents a bundle of betel and nut, goes in procession to the house of the bride, accompanied by a number of his friends and other villagers. The castemen, relations and friends of the bride's Tarawâd also assemble in the bride's Tarawâd house. The guests are then treated to a sumptuous banquet, distribution of money, especially the religious gifts called Dânam and Muhûrtham, is made to pious Brahmins. Two or three lighted lamps, a measure containing paddy and rice, and a bunch of cocoanut flowers are placed in the room set apart for the purpose, and the bride is escorted to that room by her Ammayi (Uncle's wife) or other female relatives, and there in the presence of all, rich suits of cloth are given by the bride-groom to the bride, who receives the cloth after getting the formal sanction of her Kâranavan, father, or other elders. The marriage is completed by the presentation of cloth and the couple retire to the bedroom. This ceremony is always performed at night, and is followed in North Malabar by another ceremony called Vettalakettu, which is the taking of the wife to her husband's Tarawâd after the marriage.

The ceremony of presenting cloth is not performed in South Malabar and Cochin, but the other formalities necessary to enable a man to consort with a woman as his wife are nearly the same. The main difference is that the cloth is not formally presented to the bride in the presence of the guests assembled, but is distributed afterwards among relations and kinsmen of the bride, and that the ceremony of Vettalakettu is also not customary, as the rule there is for the wife to remain in her own Tarawâd even after consummation of the marriage.

21. The same formalities as when the Sambandhakâran is a Nair are observed when a Nair Lady forms Sambandham with a Nambudiri or Pattar, with this difference that the cloth instead of being presented by the bridegroom into the hands of the bride direct, is placed on a plank before her, and is thence taken by the bride, after getting the formal consent of her elders.

22. The first part of this question has been already answered.

I believe the formalities are the same throughout North Malabar. My personal knowledge is confined to Chirakkal and Kottayam Taluqs of North Malabar, and to Bekal Taluq forming part of South Canara.

I believe also the formalities are the same throughout South Malabar, with some minor difference in details. Less pomp is displayed on these occasions in some places than in others.

23. Certainly not in these days. Such a practice never existed in North Malabar. A few Tarawâds of a low order in Nedunganâd Taluq in South Malabar, and a few similar Tarawâds in Travancore, had years back been following a sort of polyandrous system, but such Tarawâds were looked down upon with contempt, and shunned by the community at large. They had therefore to give up the practice as one opposed to general public opinion, and I don't think that polyandry is recognized, or approved, by the community at large in Malabar, Cochin and Travancore.

24. No authoritative text books, laying down the law relating to marriages among the followers of Marumakkathâyam exist, and I am unable to cite any express texts of law prohibiting polyandry among Nairs. A native work treating of the law of inheritance applicable to Marumakkathâyam Hindus, contains in para 212 a contradiction of the assertion made by a few globe-trotters and others, who without careful enquiries took it for granted that the practice of a few disreputable families, is the practice of the whole Nair community. This work, a portion of which has been translated in the Madras Journal of Literature p. p. 172—187, Volume for 1878, was compiled by the late Pandit of the Travancore Sadr Court—a learned foreign Bramin—and printed by the late Kerala Varman Thirumulpâd of Trevandrum. I have already sent a copy of this book for the information of the Commission.

25. Yes; but in North Malabar and in respectable families in South Malabar a woman does not act, and is not permitted to act, independently in these

matters. She takes the opinion of the elders of her Tarawâd, and it is only after procuring their approval that the Sambandham is terminated.

26. No sort of formality seems necessary to dissolve the connection; but the fact is communicated to each other through a respectable messenger. In some places the wife's people refuse to accept presents sent on important festival days, such as Onam, Vishu and Thiruvathira, and their refusal is construed as a termination of Sambandham. In Palghat Taluq, however, it is said to be the custom to send for the husband and two of the fellow castemen, and to declare the unwillingness of the woman to continue as wife in the presence of these men. If the divorce is to be effected at the instance of the husband, the declaration by him is made to the relatives of the wife; and the wife and children are, in North Malabar, sent to her Tarawâd house with a message to the Karanavan, or other elder members of the Tarawâd.

27. Yes.

28. Nothing.

29. In North Malabar and in some parts of Travancore the woman generally resides in the house of her husband during Sambandham.

30. No.

31. Yes; but among the poorer classes, the recognized custom is to supply the wife and children with cloth and oil only.

32. It is not the custom to change Sambandham frequently, and it is the rule for one man and one woman to cleave together for life. There are of course exceptions to the rule, and instances of divorce are not rare; but if the divorce is effected by either man or woman without sufficient cause, the person in fault is shunned by his fellow caste men and neighbours.

33. He does feed and clothe them.

34. If the anandravars work for the Tarawâd they are fed and clothed by the Karanavan and their necessities, including the expenses of their wife and children, if any, are supplied by the Karanavan.

They do sometimes, but not often, cultivate Tarawâd land for a rent, and in such cases they are permitted to deal at their pleasure with the surplus if any.

In former days the Anandravans used to work generally for the Tarawâd, but in recent times the Anandravans generally try to earn something for themselves.

When the Tarawâd consist of near relatives only, or when the Karanavan is a good manager, who has really at heart the interests of the members of the Tarwâd individually and collectively, the Anandravans do hand over their earnings to the Karanavan.

37. A gift of some property is made by the father with the consent of the other members of his Tarawâd to his children, and this gift is called Puthrâvakâsam in North Malabar. Similar gifts are made in South Malabar also, but not as often as in the North. The practice in Travancore in rich Tarawâds is for the father to execute the deed of gift at the time of Kettukalyânam ceremony and proclaim

the gift at the marriage pandal, in the presence of the assembled guests.

38. Yes, my objections are :—

(1) Any law intended, as the proposed one, to raise the moral and material prosperity of the Marumakkathâyam Hindus, should be binding on the whole Community. The State should not undertake legislation in such matters unless it is satisfied that the proposed measure will conduce to the well-being of the community at large; and when once it is so satisfied the law should be made compulsory on the community, whatever the wishes or sentiments of the individual members may be.

(2) The proposed change in the law of Inheritance regarding separate property, will tend to create dissensions in Marumakkathâyam Tarawâds, increase litigation, and eventually lead to the ruin and extinction of Marumakkathâyam system of inheritance.

(3) No new form of marriage need be introduced. The marriage customs in vogue if strictly enforced, are not positively mischievous, and the evils complained of may be remedied without radical innovations.

(4) The proposed permissive law would militate against the well known principle that no person or body of persons "can create a new form of estate or alter the line of succession allowed by law for the purpose of carrying out his own wishes or policy". The rule of inheritance being one laid down, or recognised by, the State not merely for the benefit of the individual, but for reasons of public policy, should not be altered at the instance of persons who would retain the benefits derivable from the old law, but would avoid the obligations imposed thereby.

(6) It is unfair and unjust to Marumakkathâyam Tarawâds that they should be altogether deprived of the benefits of education of the members, imparted generally out of Tarawâd funds, and that the residue of the Tarawâd Fund should still be left available to those from whom no advantage is to be derived by the Tarawâd as a whole.

(7) It is in fact a one-sided measure, which does not sufficiently take into account the duties and obligations *inter se* of the members of Marumakkathâyam Tarawâds, and of the moral obligations one is under of making due provision for his mother, sister, and other nearest relatives, out of his earnings.

(8) The non acceptance of the optional law would virtually inflict bastardy on the children of many respectable classes of society, who under the customary law now sought to be superseded, are regarded as legitimate.

(9) The registration of marriages would simply increase the trouble and expense to which the poor classes of society are now put in celebrating marriages.

(10) Any social reform should as far as possible be on the lines of the practice adopted by the intelligent portion of the community, but the present Bill ignores these practices.

39. If legal sanction is to be accorded to marriages, I would certainly retain the customary form of marriage. The form of marriage proposed in the Bill is unsuited to the people for whom it is intended. I am not sure that the parties should be put to the expense of registration. The publicity with which

marriages are celebrated affords the means of proof of marriages. The marriages of other classes of Hindus are not registered, and no evil consequences of a nature demanding legislative interference are known to have resulted from the omission.

40. Yes. In some respects. In the first place, the prohibition involved in the first condition as far as it relates to males is not sanctioned by law or custom. In common with other Hindus, the followers of Marumakkathâyam are permitted by law and custom to contract a second marriage during the life-time of the first wife, though females are not so permitted.

2ndly, the age for contracting a Sambandham or Marriage is popularly supposed to be 18 for the male as proposed, and 12 for the female and not 14. The girls' attain puberty between 11 and 14.

3rdly, the two provisos to clause 4 introduce innovations which may not be acceptable to the orthodox members of the community.

41. I would leave unaltered the present practice whereby a man is at liberty to contract more than one marriage under certain circumstances. The practice as already stated is sanctioned by the Hindu Sastras, held sacred by every Hindu and the interference with such practices is uncalled for. The first condition proposed to be laid down should be so altered as to make it conform to the precepts of Hindu law. I would omit the two provisos to clause 4. They are misleading, and not in accordance with popular sentiments on the subject.

Marriage between persons belonging to the same Vamsam, or clan, whose relationship though only traditional is kept up by the observance of pollution (പുല 'pula' and വലായ്മ *vâlâyma*) on the death of a member in the family, is strictly prohibited among Marumakkathâyis, and such prohibition against marriage which is to be found in almost every part of the world, and to which some writers have given the name of exogamy should I think be respected in toto.

42. Adultery. The commission by either party of heinous crimes involving lifelong incarceration in jail. Disobedience to lawful orders, and quarrelsome behavior on the part of the wife. Loss of caste in either party.

43. Nayar wives and their children are supported by the husband during his lifetime, if he can afford to do so. After the husband's death, they are supported by the Kâranavan out of Tarawâd funds, if the husband died without making adequate provision for the maintenance of his children. If the parties do not belong to the working classes and if the wife's Tarawâd be rich, while the husband is poor, the wife and children reside in their Tarawâds and are there maintained by the Kâranavan.

44. I have no objection to urge against the proposals (a) and (b). They simply legalize the practice observed by the respectable portion of the Marumakkathâyam community, and would not generally speaking be distasteful even to the masses. I see also no serious objection to the proposal (c).

The proposal (*d*) deals, though indirectly, a deathblow to the Marumakkathâyam System of inheritance. If the Tarawâd is not to get any portion of the selfacquisition of its members, the Marumakkathâyam Tarawâd System cannot be properly worked, or maintained, according to the intention of its founders. That System has endured for ages, and the Tarawâd is the best extant type of the primitive Hindu undivided family, whose cherished idea is to work and earn for the good of the whole, and not for the individual benefit alone. It has conferred domestic happiness in past ages on a large proportion of the inhabitants of the West Coast, and it is not proposed to do away with that System altogether. If so, the soundness of the proposal (*d*) is open to question. In my opinion all that the State ought to do at present in order to satisfy the requirements of the progress of Malabar society, is to declare the marriages under the present System valid for the purpose of bringing the sinners against morality under the clutches of penal law, and to confer upon the wife and children a claim for maintenance, out of the husband's selfacquisition, should he die without making due provision for the maintenance of his wife and children.

The proposal (*e*) if adopted would be very beneficial. The doubts thrown upon the competency of Marumakkathâyee Hindus to dispose of their separate property by will, are indeed felt as a grievance by many. To prevent, however, arbitrary and whimsical dispositions contrary to moral precepts, it may be distinctly laid down that the maintenance of destitute parents, and of unmarried or destitute sisters, will be a charge on a man's self acquisitions; and that testamentary disposition made without any regard to their right of maintenance, would only be given effect to subject to such rights.

I am not in favour of a total change in the law of inheritance in the manner proposed and I think the State should at present aim simply at repairing the recognized evils of the Marumakkathâyam system, without pulling down the fabric of the system, and thus necessitating its reconstruction. In this view it follows that the proposal (*f*) is in my view superfluous.

45. Sambandham between the Nayars in British Malabar (South) and those living in Cochin and Travancore is customary. There are several families in Cochin and Travancore who are allied to those in British Malabar. Many of the high caste families in Travancore for instance. Tampis of South Travancore and Kurups of Trevandrum, and numerous other families in North and South Travancore, are descended from those who from time to time emigrated from the land now known as British Malabar; and most of the princely houses, allied by marriage, or otherwise connected with, the reigning family in Travancore, still possess Palaces and Estates in British Malabar. There have however of late not been many marriages between women of North Malabar and persons residing in Cochin and Travancore, owing to the prejudice of the former to cross the Korapuzha river.

T. KUNHI RAMEN NAIR.

1. I shall now proceed to record as briefly as possible my views on the proposals now under investigation by the Malabar marriage commission.

2. These proposals are to pass a permissive law enabling such of the Marumakkathâyam Hindus as are willing to do so, to contract a marriage in a prescribed form; to institute a judicial system of divorce; to make adultery and bigamy offences; and to confer on the persons contracting marriage under the Act and their children, certain new rights, namely,

(a) To the husband. The guardianship of his wife and of her children born to him before or after such marriage, and the right to take by survivorship jointly with his children any undisposed of separate or self-acquired property which the wife may die possessed of.

(b) To the wife and children—A right to claim maintenance from the husband, and to take by survivorship, that is to succeed to the undisposed of separate or self-acquired property of the husband.

(c) To the wife alone—The legal guardianship of the children in her own separate right.

(d) To both husband and wife—Power to dispose of his or her separate property by will.

3. As will be seen from my answers to the questions you have been good enough to address to me, the only proposals which have my entire support are those aimed at conferring testamentary power, and at giving a right of maintenance to the wife and children out of the earnings of the husband.

4. The testamentary power seems urgently called for. There is, I believe, a consensus of opinion on the desirability of legislation on this point, and legislation on the subject has been suggested not only by the late Malabar Land Tenure Commission but also, as I understand, by Sir Charles Turner, who did not view with favor the other proposals of the late Commission. The present proposal restricts the testamentary power to those who contract a marriage under the new system, but I have looked in vain, in the statement of objects and reasons, for any reasons for confining the privilege to a select few, and I conclude that the restriction is unintentional. If not, the restriction seems wholly uncalled for. The reasons which may be urged in support of conferring testamentary power on a husband and wife under the new system, equally hold good in the case of every follower of the Marumakkathâyam system. The reasons are (1) that the legal duties of a Marumakkathâyam follower are constantly in conflict with his natural affections; (2) His wife and children, mother and sister are the greatest objects of his love and affection, but the two first do not get his property at all after his death, descending as it does to his Tarawâd which may, for the time being, be, for ought we know, under the administration of a very distant relative, and the two last get in some cases, only a distant chance of succeeding to the actual management of such property; (3) At present he can make provision for those nearest and dearest to him only by making gifts with transfer of possession,

and thus stripping himself of his hard earned property, during his life-time, which in the generality of cases a prudent man is very reluctant to do; and (4) that the power of making will, to take effect after one's death, would minimise the evils of the present system by enabling him to dispose of his property in favor of his wife, lineal descendants and others. This power is now possessed by other Hindus, and was at one time thought to be inherent also in the followers of Marumakkathâyam under the customary law of the country (See the Fifth Report of the Select Committee of the House of Commons on the affairs of the East India Company 1812 page 133) but some rulings of the Madras High Court have tended to shake this belief though the tendency of the latest rulings is to recognise the testamentary power in certain cases. It is of the utmost importance that there should be no room for doubt upon an important point like the testamentary power, and an authoritative declaration by the Legislature of the validity of wills executed by Marumakkathâyam followers, in regard to such separate property as could now be alienated by gift during their life time, seems needed; and this declaration should of course include every Marumakkathâyam follower, and not a fraction of them alone.

5. It is also expedient in my humble view that the wife and children of every Marumakkathâyam Hindu should be expressly given a statutory right to maintenance out of his separate or self acquired property. Such right is now enjoyed by them in practice during the life-time of the husband, and the custom on this subject prevailing throughout North Malabar in respectable and influential Tarawâds has, I understand, been judicially recognised by the highest Court in the Madras Presidency, but there are not wanting instances in which the widows and children of respectable men, brought up in ease and comfort during the life-time of their husbands or fathers, have become beggars, as their own Tarawâd did not possess any property; and the opinion of the public generally is that such a state of things should not be continued any longer. The legislation on the point will, therefore, be hailed with joy by at least the majority of the Marumakkathâyam Hindus, and may, therefore, be undertaken by the State without laying itself open to the charge of having unduly and unnecessarily interfered with social institutions. To concede this right however to only those marrying under the new system, and to refuse it to those marrying or married under the old system, would be making an invidious distinction which cannot be supported in principle, unless indeed it is to be authoritatively held by the Legislature that those who cohabit as husband and wife after performing the ceremonies prescribed by the custom of their community and popularly supposed to constitute a real marriage, are really not fit to be recognised as husband and wife, and that their offspring are bastards deserving of no sympathy in the interests of morality. I do not think such a view can properly be held in the circumstances under which the customary Sambandham, or Guna Dôsham, as the ceremony of actual marriage is in some places called, takes place, nor does the ease with which divorces can be effected by the husband or

wife under the custom of the country, and which, in some quarters, is held to reduce the relationship to a mere concubinage, detract from the value attachable to the ceremony of Sambandham (actual marriage.) The Mahomedan Law sanctions divorce by the husband at his mere will and pleasure, and yet no one has been hitherto bold enough to urge, on that ground, that the relation of husband and wife under the Mahomedan Law does not constitute a legal marriage. The old theory probably was that a girl, if of a mature age, is at liberty to choose Sambandhakâran or husband for herself, and to separate from him according to her pleasure, but according to modern practice, the right of choosing a husband is exercised by the father, or Kâranavan or other natural protectors of the girl, and divorce is also not effected without the consent of the elders in the girl's family. It is thus only in theory that the marriage, or Sambandham, under the Marumakkathâyam system can be said to be based upon mutual consent and dissoluble at will. In practice, the moral sanction has in general been found sufficiently strong to prevent dissolution, and if statistics be taken of the number of divorces among respectable classes of the community during the last ten years, the result would, I am sanguine, show that the divorces amongst Malayâlis (except the working classes) are not more frequent than amongst other races.

6. Even granting that the power of divorce is wantonly exercised in Malabar to such an extent as to be detrimental to the well-being of the society, the fact cannot alter the character of the original transaction, and relationships formed by people according to the dictates of their common law, and in the full belief of their efficacy as a real marriage, are worthy of being recognised by the State. Each community should be judged by its own laws and customs, and not according to foreign laws, which it cannot be expected to know, and ideas borrowed from other systems can hardly be imported with justice into the discussion of the validity of Malayâli marriages. A deference to local and ancient customs is dictated not only by justice but by policy also, and the British Government has pledged itself to respect the social customs of its subjects. If so, the wife and children under the existing customary marriages should not be ignored, and they must be given the full benefit of any law which may be made in favor of similar classes. In conferring this right, the Legislature would, as already observed, be simply legalising the present practice on the subject, and no real innovations are involved in the proposal.

7. The other proposals adverted to in para 4 are open to grave objections which in the aggregate appear to me to be fatal in effect.

8. The first in order of these objectionable proposals is the one for providing a peculiar form of marriage on the lines prescribed for Parsis and Brahmos. The proposal proceeds on the assumption that no system of marriage exists amongst the community at present, but the assumption is, I am afraid, purely gratuitous and has no foundation in fact.

9. As already stated in my answer to the Commissioners' questions, the Marumakkathayam Hindus of the West Coast have a marriage system of their own evidently modelled on the system followed by their brethren on the East Coast. First there is the Kettu Kalyanam, or ceremony of tying the Tâli or marriage badge, which is a relic of the betrothal ceremony of Hindus, and 2ndly there is the consummation of marriage, or real marriage, which in different parts of the country is known by different names—Puda Muri, Puda Kuta, Sambandham or Guna Dôsham. The latter term signifies, as in the English wedding service, the mutual contract of the parties "for better for worse, for richer for poorer," and it shows that the original intention was that the persons united by the ceremony should cleave together for life. The betrothal ceremony, or Kettu Kalyanam has in course of time become an idle and meaningless ceremony, as it was thought for some reason or other, which it is not easy to gather with certainly at this distance of time, that the bridegroom selected haphazard need not consummate the marriage, or complete the ceremony, and the bridegroom's assent to a formal dissolution of the engagement is purchased at the conclusion of the ceremony, except in rare cases where he is allowed to consummate the marriage by the presentation of cloth. The presentation of cloth is the symbol for consummating marriages, and what originally was intended to be a mere consummation of marriage previously contracted by the tying of Tâli, has in course of time come to be regarded as the real and actual marriage. This latter ceremony, that is the Sambandham or Guna Dôsham, is performed publicly, with due solemnity, in the presence of friends and relations especially invited to the bride's house, and the real husband is chosen for the most part by the woman's parents, or other guardians. The ceremony has something also of religion in it, Dânam and Muhûrtham presents to Brahmins being usually made on the occasion, and the performance of this ceremony is considered essential to legalise the union of man and woman as husband and wife. Cohabitation between men and women without undergoing this ceremony is looked upon by the public as an illegitimate and improper connection, involving social disgrace. Such being the real state of circumstances, can it be justly said as has been done in some quarters that the customary Sambandham, or Guna Dôsham, is only a sort of concubinage "into which the woman enters of her own choice, and is at liberty to change as often as she pleases." That the actual fact is otherwise is known to every one who has taken the trouble of minutely enquiring into the matter, and a great authority Sir James Stephen the late Legal Member, is reported to have said in the Vice Regal Council at Calcutta in 1872, that "in spite of the loose marriage system, loose *from a purely legal point of view only* (the italics are mine) the marriage is practically as common and as binding among Nairs as in many other races. The connection which they form usually last for life, and is marked by a great deal of mutual fidelity." Similar testimony is borne by local District Officers (European) of whom

Mr. Logan, whose experience of Malabar was great, has remarked in the Malabar District Manual, that "no where is the marriage tie more rigidly observed and respected, nowhere is it more jealously guarded, or its neglect more savagely avenged than in Malabar." It may with safety be assumed that when several thousands of intelligent people practise certain customs for thousands of years, as the marriage customs of Malabar have been, by a race second to none in intellectual and physical attainments, there must be something in those customs entitled to respect, and though social reforms may be found needed by modern circumstances, such reforms must come from within, and not be forced on the people. Any violent and radical changes in the form of marriages, far from conducing to the progress of needful social reforms, would simply retard it; and it makes but little difference that the special form is applicable to only those who may choose to adopt it. Those who adopt the new form, in which religious elements suited to popular ideas find no place, are likely to be treated by the orthodox members of the community as outside the pale of their caste, and no one who has anything to lose by his severance from his Tarwâd and from his caste, would adopt the new law. The measure will further create jealousy and ill-feeling amongst the members of Tarwâds, and where peace and contentment prevailed before the introduction of the new law, dissension and split would, I am afraid, be the order of day. In any event, there will be a further split in the community which is already divided into numerous sub-divisions, and the proposed law may, in all probability, prove the very reverse of beneficial. I think no good is likely to accrue, in the long run, by passing a permissive law for a community noted for its tenacity to old customs; and that I am not exaggerating the hold which the customs and usages have over people, may be easily inferred by anybody when I say that there are still numerous people in North Malabar, who think that because it was not the custom for their women to cross a certain river in the past, therefore the crossing of the river in this 19th century is objectionable. There is not the least necessity for altering the form to which people have become accustomed by long usage. The marriage ceremonies are not uniform throughout the world differing as they do a good deal from one another, and there is nothing in the Puda-Muri, or Sambandham, ceremony of Malabar to warrant its exclusion from the list of marriage ceremonies.

10. If, as stated in some quarters, Courts have ruled against the validity as marriage of the customary Sambandham, or Guna Dôsham (I am not aware of any such ruling by the highest Courts, bearing on the Marumakkathâyam system) the best course to pursue is to seek the intervention of Legislature for the purpose of removing these doubts, by affirming the validity of customary marriages, and a special form of marriage unsuited to the sentiments of the people is the last thing which those having the well-being of the community at large, at heart, should seek to get. Every innovation is viewed by people with

suspicion and distrust, and the form proposed is hardly calculated to allay these suspicions. Apart from the omission to provide for the presence of some religious emblem such as the lighted lamps, Nirapara* &c., essential in the view of the common people to add solemnity to such serious engagements like marriage, the new form is too un-Hindu in its general character to find general acceptance. Females of the respectable classes, however educated they may be, are naturally shy and reserved, or affect to be shy, and would find it inconvenient—nay derogatory, to repeat in public in the presence of a Registrar (an utter stranger and perhaps a Christian, Mahomedan, or Pariah) and of those assembled, the words of the formula proposed in the Bill, and the very idea of young females appearing in public and before strangers is distasteful to the community. The wives are not, in some places, permitted to utter even the names of their husbands, and it would shock the feelings and sense of propriety of such people, if they are forced to say in public as proposed the words “I take thee to be my lawful husband.”

11. It is possible that if the materials for forming a correct judgment on the question of the validity as a legal marriage of the customary Puda-Muri, or Sambandham, ceremony, and on the present practices of the people, be properly placed before the highest tribunals, they may be led to take a different view in regard to Marumakkathâyam system than what they are reported to have taken when cases under the kindred Aliya Santhânam marriages of South Canara cropped up before them. The Sadr Court of Bengal has so far back as 1817 (see Jaganatha's Digest 606) declared the validity, between Kshatrias, of the Gandharva marriage, one of the eight forms of marriage sanctioned by the ancient Smrithis, and belonging, as Mr. Mayne rightly observes, to a time when the notion of marriage involved no idea of permanance or exclusiveness. Marumakkathâyam, and for that matter Aliya Santhânam, marriages under the present system, surely stand on an equal, if not higher, footing with Gandharva marriages. The notion is entertained by some, namely that the connection as husband and wife under these systems, being dissoluble at the will of either party, no prosecution can successfully be maintained for adultery or bigamy, but those who entertain this idea have not in my view taken note of the fact, namely that some overt act, expressive of the intention to divorce, that is a formal declaration, is needed, before the dissolution can take place. Until such declaration is made, the relationship lasts, and the parties are treated by the public as husband and wife, and if anybody offends during the existence of this relationship he is liable for the consequences. Under such circumstances, it may be doubted, if legislation on the subject is necessary at all, but as the right of maintenance as one of the legal incidents of marriage has to be conferred by Statute, the resort to legislation may be needed, and I see no harm in taking this opportunity to place the whole law on a satisfactory footing by an express declaration from the Legislature of the applicability of the provisions of the Penal Code

* NOTE.—Nirapara=A full measure (of paddy.)

anent the offences against marriage, to Marumakkathâyam Hindus as well. I need hardly add that the Penal Law relating to bigamy does not affect ordinary Hindu males, and that the Marumakkathâyam Hindus should be placed only on a par with ordinary Hindus. The present proposal to make the husband also indictable goes too far, and is on that ground open to objection.

12. I do not think the registration of marriages urgently called for. The marriages of Hindus and Mahomedans in this Presidency are not registered, and the omission to register has not been found by experience to be productive of much evil. Every Malayali marriage is celebrated publicly and openly with a due amount of pomp, and the fact affords the best means of proof of marriages. If registration is thought necessary, such registration may be effected, without the trouble and expense attending the registration of a conveyance before a Registrar by parties not appearing in his office, if the Government would direct the Registrar to file in his office certificates of marriage signed by the husband and wife, and their Kâranavans, or fathers, in the presence of three witnesses, one of whom shall be the local Adhikâri, or village Munsif. Precedent for such a form of registration of marriage is furnished by the rules framed with the sanction of the British Government for regulating the marriages of certain castes in Ahmedbad and Kaira Districts, one of such rules being that every betrothal, or marriage, shall be reported to the Talati for registration without fee.

13. Next as regards the proposal to institute a judicial system of divorce. I doubt very much if it will suit the conditions among which the Marumakkathâyam community live and move. The measure will give terrible scope for private malice to bring humiliation and disgrace upon respectable families, and will, I am afraid, destroy the happiness of the people whom it professes to serve. A public trial of matrimonial and divorce suits of the kind contemplated, regardless of the result of the trial, is a life-long disgrace to any family. The readers of reports of trials in Divorce Courts, both in England and in India, are not likely to be fascinated with the proposed mode of settling private family disputes and squabbles. There is no denying that the West Coast Hindus, though following peculiar usages in regard to marriages and inheritance, are still Hindus in religion and by birth, and that ancient Hindu Smrithis, and the interpretation put upon them by learned persons, have influenced, and do still influence, their rules of life, wherever the local circumstances have not compelled them to adopt other rules, and they would, I believe, rather wish to be put on a level as far as possible with their Hindu brethren in social matters, than with the Parsis whose Marriage and Divorce Act 15 of 1865 forms the basis of the proposals made. Makkathâyam Hindus constitute the bulk of the population of India, and no Matrimonial or Divorce Courts have hitherto been established for the benefit of this large and increasing population, though the right of divorce, or more correctly speaking the right of supersession for certain justifiable reasons, is not denied by their law, and some castes

among the Hindus practically exercise this right, nor has the necessity for such been felt under the social laws governing the Hindu community.

14. I am free to confess that the freedom of divorce now enjoyed in theory by the Marumakkathâyam Hindus is liable to abuse, and I am at a loss to appreciate the views of those who consider that there is nothing in the prevailing customs requiring improvement, and that the absolute freedom of divorce now conceded by custom is essential to the well-being of the society, but at the same time the adoption bodily of the English or Parsi law of divorce, which may be turned by designing and unscrupulous persons into an engine for oppression and mischief, is to be deprecated, and I think the requirements of progress of the community would be amply met if it be laid down (1) that no divorce is to take place except upon the mutual agreement of both husband and wife, to be recorded in a writing signed in the presence of at least three of their fellow castemen; or in cases where either party has lost caste by change of religion, or been imprisoned for life, and (2) that adultery uncondoned will bar the wife's claim for maintenance against the husband or his estate.

15. Still more strongly is the proposed change in the law of succession to the self-acquired property of a member of a Marumakkathâyam Tarawâd to be deprecated. The essence of the joint-family system is that its members should work for the common good, and bring their earnings to the common stock. Just expectations of people would be frustrated if the property of every earning member left undisposed of by him, is to be given away to persons other than those appointed by the customary law. The Marumakkathâyam Tarawâd is the best extant type of the primitive undivided Hindu family, and the ideas and principles pervading the system are borrowed from the primitive Hindu Law, with this difference, that instead of the wife and children, the sister and her children are regarded as heirs. The only thing that can be urged against the system is that it does not recognise the claims of wife and children, and is, therefore, opposed to natural laws, but when the claims of wife and children are recognised in the manner already suggested, by conferring upon them a right to maintenance on the lines of the practice adopted by the respectable classes of the community, the reason for the proposed change would fall to the ground, and further interference with this social institution would be unnecessary in the interests of the community at large. A widow with sons in an undivided Hindu family has, under the ordinary Hindu Law, simply a right of maintenance; and the head of the family is, under the Hindu Law, bound to maintain besides his personal family, consisting of his wife and children, his grand-mother, unmarried sisters, widowed sisters who may have no other provision, his illegitimate children and their mothers &c. (1. Strange 67, 171, 175). Similarly a Nair Tarawâd ordinarily composed of a number of men, women, and children, standing in the relation of mother, sister, niece, uncle, nephew, brother and so on to one another,

look to each other for help and support, and those of the relations, who are unable to earn their livelihood depend entirely upon the earning member for their support. The laws of succession obtaining in other civilized countries do not wholly ignore the claims of mother and sisters to inherit a portion of the Intestate's property under certain circumstances, and the Hindus of all classes have long regarded it as a moral, if not a legal obligation to support their destitute mothers, sisters and other relatives out of their own earnings. The sister has by some eminent ancient Hindu lawyers (Nanda Pandita and Balambhatta, for instance, who interpret the text of Mitakshara, which gives the inheritance to brethren, as including sisters) been regarded as an heiress to her brother's property, and this interpretation, though rejected by others as opposed to the whole spirit of the Hindu Mitakshara Law, must probably have had much influence in moulding the ideas of the primitive Hindus of the West Coast. Intelligent and thoughtful Hindus of the East Coast are, I believe, alive to the injustice perpetrated by modern Hindu lawyers by cutting off sisters from their right of succession as nearer heirs to their brothers, and the public feeling on the subject has prompted an honourable member of the Madras Legislative Council to give notice of his intention to introduce a Bill with the object, I presume, of giving greater rights to the sisters than are enjoyed under what is called the modern Hindu Mitakshara law. It would certainly be a retrograde step, if we are now to introduce into Malabar laws of inheritance, considered defective in other parts of India.

16. The proposed change is further inconsistent with the declaration made, namely that the Marumakkathâyam system will be left untouched. If the earnings of individual members are not to flow into the old channel, subject to every valid and just claims and charges on them, the maintenance of wives and children being included among such charges, but are to be diverted into other channels,—the present system will, like the crops without the means of irrigation natural or artificial, have to disappear from the field sooner or later. It is not true that every Malayali Tarawâd is possessed of ancestral or Tarawâd property upon which he can fall back in the absence of other property. Most of the Tarawâds, as I have already said, look upon the earnings of their members for their prosperity and aggrandizement, and the Tarawâd system has not in the past been productive of such serious evils as to warrant its extinction by a stroke of the pen. The system has been the growth of centuries, and is believed to have conferred happiness on the people generally, and any introduction of foreign ideas into that system, in a manner inconsistent with the ideas and notions prevailing in the bulk of the community of what is right and proper, can only result in mischief, and tend to bring the Hindus of the West Coast into the same chaotic scramble of antagonistic interests which from actual experience I have found to be the characteristic of the double system of inheritance, Marumakkathâyam in regard to ancestral, and Makkathâyam in regard to self-acquired, property, followed by some Mâpilla families of South Malabar. I know for a fact that several Mâpilla families in Shernad, where I was

employed for sometime, have been constantly at enmity with each other, owing to the prevalence of both the Marumakkathâyam and Makkathâyam systems among them, and been ruined by frequent litigation.

17. It is perhaps superfluous to remark that the practice of dealing with one fraction of a subject without giving heed to the effect likely to result on the whole matter, is unwholesome, and no part of an ancient system like the Marumakkathâyam can be destroyed without detriment to the whole system. It may be granted that the old system is not the best divisible system *per se*, but it must be judged by its results. What then are these results? We find there aristocratic families who, in spite of dynastical changes, revolutions, and wars of old, have retained their ancient possessions virtually intact. We find there middle classes and farmers who, though at times subject to the tyranny of those in power in olden times, have similarly retained what little they possessed, and are able to support their poor relations without being under the necessity of driving them to the streets, and we find also working classes, whose lot and position in life, would compare favourably with those of similar classes elsewhere. Careful observers of this Malabar system have in the past eulogised it as a wholesome one from an economical point of view, and a system which has produced these results, must have been built on a careful utilisation of natural laws for securing general content, and the greatest happiness of the greatest number. There is not the least necessity for superseding such a system in favor of a double system of inheritance, the effects of which among the few who had adopted it in former times, have not been beneficial.

18. I am free to admit that the natural love and affection which a man has towards his own children is greater than what he possesses towards other relatives, and that the present system, which ignores this natural love, has like every other system in this mundane world its advantages and disadvantages, but the disadvantages may vanish by degrees as western education and civilization progress, and a hasty legislative interference with the social customs can, in the present state of the feelings of the masses, result only in defeating the very object which the Government have in view, that is the welfare and progress of society in moral and material condition. I need hardly add that the true statesmanship consists not in introducing violent and radical innovations in the social systems opposed to the feelings and sentiments of the masses, but in assisting the progress of social reforms in a given community by legislating on the lines of the practice which the majority and not the minority, of the community may have thought fit to adopt under altered conditions, and circumstances in life, of the bulk of the community.

19. To sum up my remarks. I consider

(1) That the proposed change in the law of inheritance regarding self-acquired property is inexpedient.

(2) That the only legislation needed in the interests of the well-being of the Malayâli society is one for the purpose of (1) affirming the validity of existing real marriages, the betrothal ceremony which has for centuries been treated as merely an idle and mock ceremony being of course disregarded, (2) of creating a charge on the self-acquired property of a man for the maintenance of his wife and children, who may be otherwise left unprovided for (3) of restricting divorces to cases where the parties mutually consent, or lose caste, the adultery uncondoned being treated as a bar to wife's claim for maintenance, and (4) of declaring the validity of testamentary dispositions of property made by Marumakkathâyam Hindus with due regard to the claims of destitute mother and sister.

20. With reference to Para 4 of your letter, I may say that I have observed amongst the educated and intelligent of the Marumakkathâyam community, symptoms of a revolt against the case law (I would not call it a custom, because the custom is otherwise) which prevents a man from bequeathing his self-acquisitions to his wife and children, and others dearer to him, and against the custom which gives his wife and children no claim to maintenance from his separate property.

21. People would undoubtedly welcome a way of escape from these customs, or supposed customs, and there can be no two opinions as to the necessity for reform on grounds of morality. The best way of escape, however, from the evils produced by these customs or case-laws, is by legislation in the mode suggested in the preceding Paras.

I have the honor to be,

Sir,

Your most obedient servant,

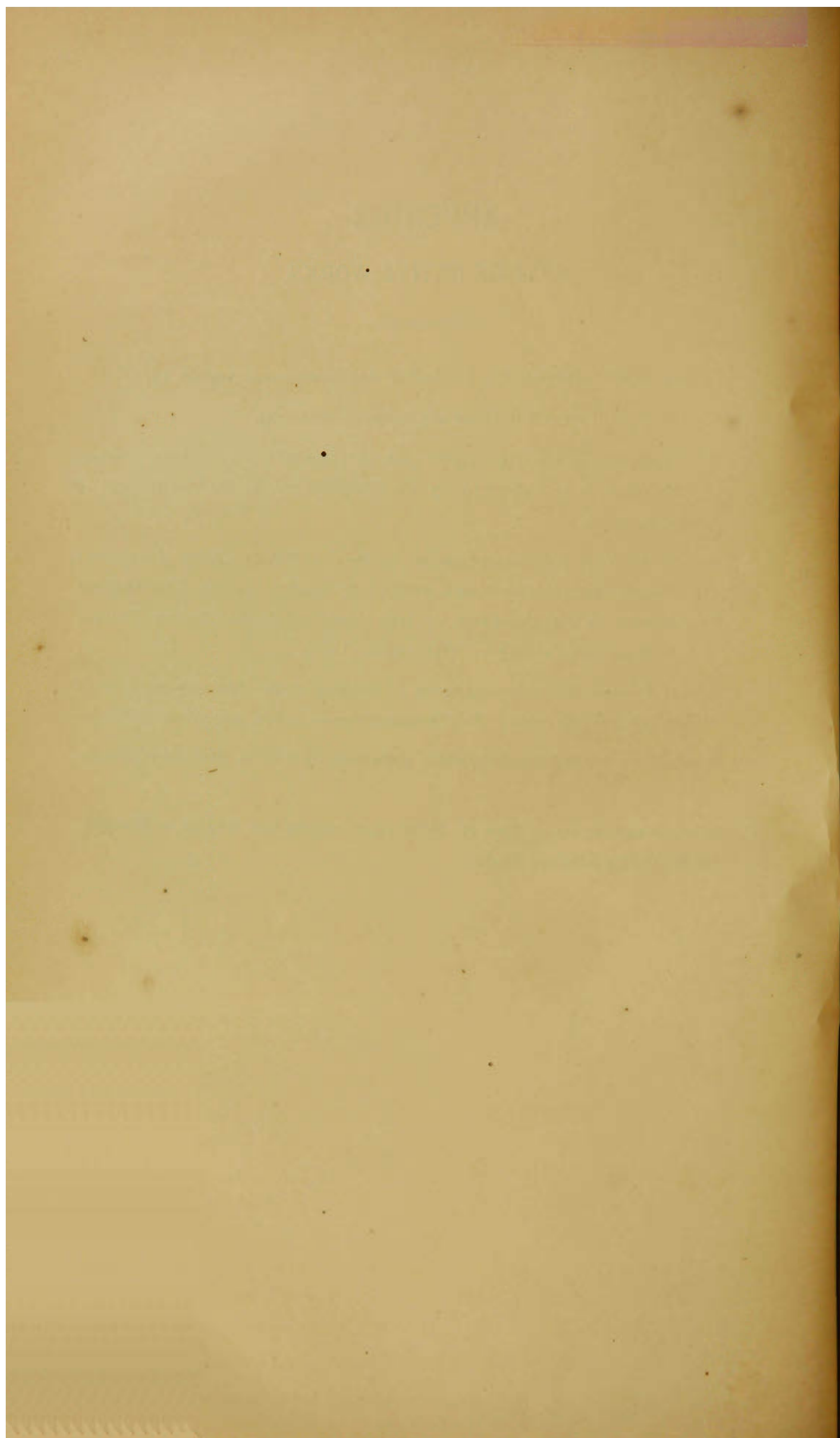
T. KUNHI RAMEN NAIR.

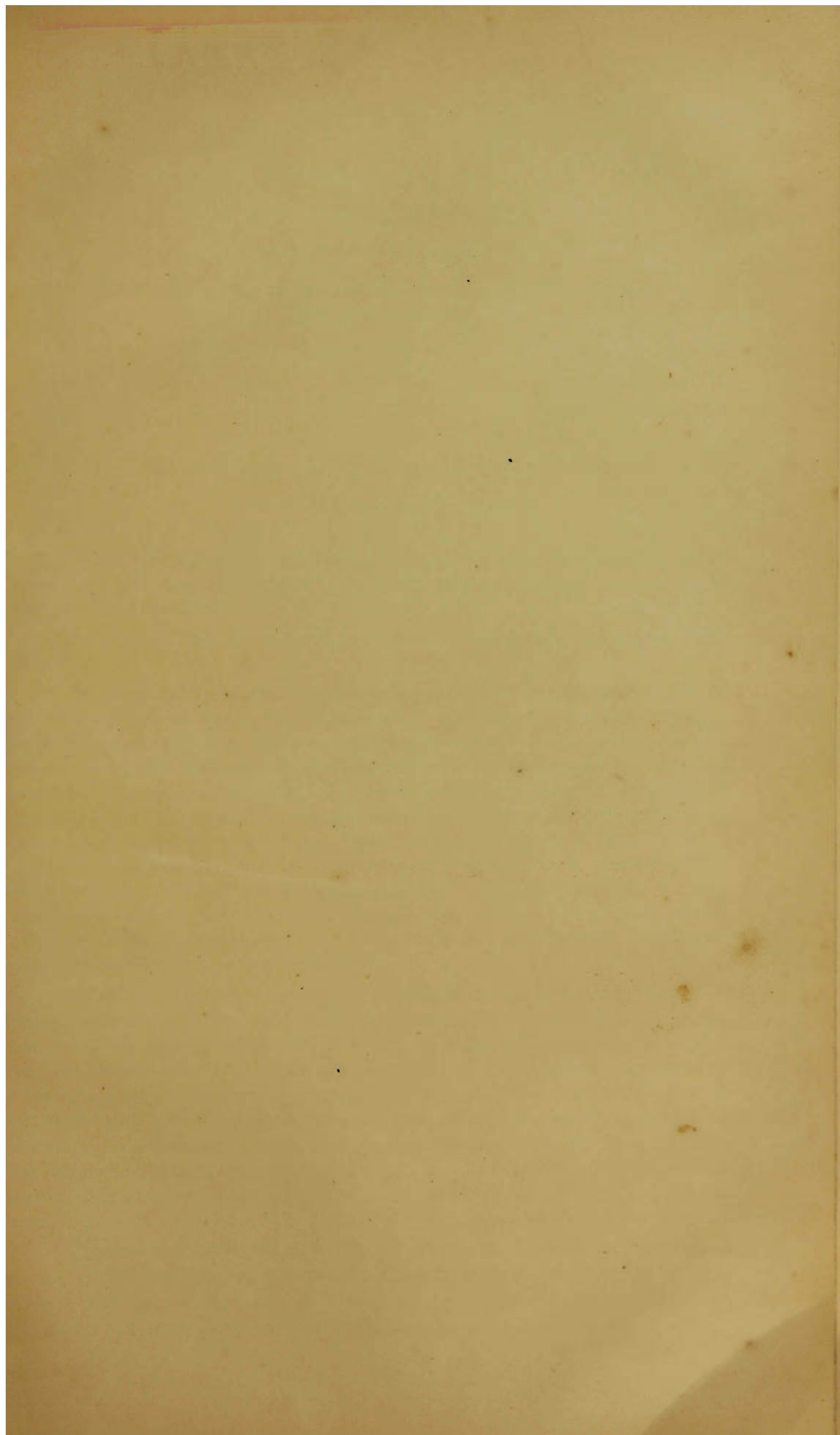
APPENDIX

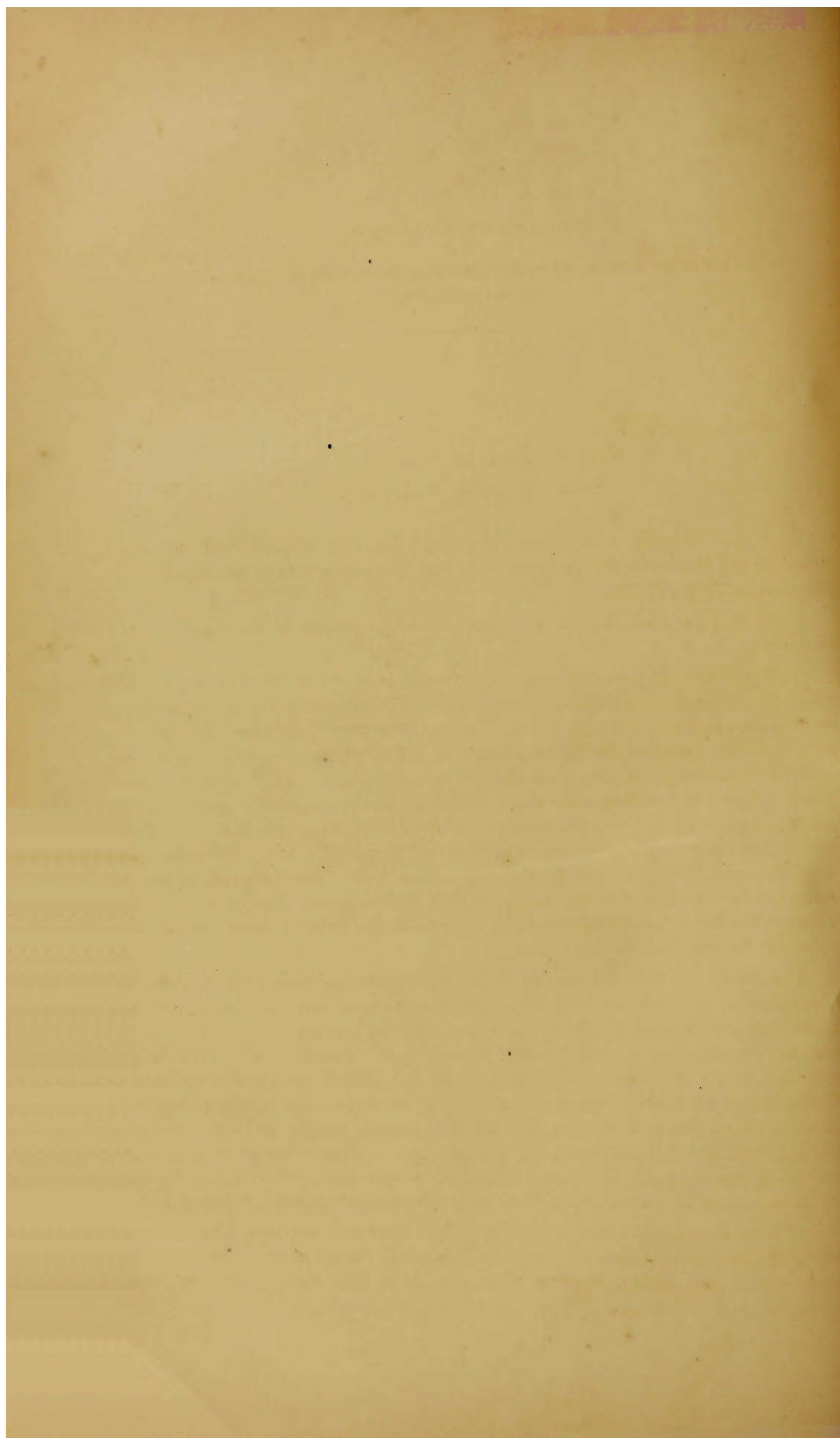
LIST OF NATIVE WORKS.



1. Keralâchâram, translated in the Indian Antiquary—1st August 1875.
2. Kerala Olpathi (of which there are different versions).
3. Kerala Mahâtmyam—104 Chapters (not yet printed), a synoptical abstract of which has been published by Dr. Gundert in the Madras Journal of Literature 1844.
4. Kerala Avakâsa Kramam, compiled by the late Pundit of the Travancore High Court, and continued and printed by Karala Varma Thirumulpâd, Trevandrum—a portion of this has been translated in the Madras Journal of Literature (p. p. 172-187. Volumes for 1878).
5. Kerala Vishicha Mahâtmyam, being an account of the chief sub-divisions of Marumakkathâyam caste. St. Thomas Press—Cochin, page 98—(1876).
6. A pamphlet on the birth and death pollutions by Patchu Mussad—Trevandrum.
7. Marumakkathâyam, or Law of Inheritance among the Sudras of Malabar, by R. Muthu Krishna Naidu.







LETTER FROM
M. R. RY. T. RAMA ROW AVARGAL,
DEWAN OF TRAVANCORE.

(This letter is to be taken as expressing the unofficial opinion of a
private individual.)

PEERMEDE,
30th April 1891.

To,

H. M. WINTERBOTHAM ESQUIRE,
Collector of Malabar, on Special Duty.

SIR,

I have the pleasure to acknowledge your printed letter dated the 11th Instant regarding the Honorable Sankaran Nayar's Bill to provide a form of marriage for Marumakkathâyam Hindus.

2. I have read the Bill, and some of the discussions in the papers on the subject.

In reference to para 3 of your letter, I may observe that, considering that the marriage customs among the Marumakkathâyees in Malabar and Travancore are very much alike, and that, especially in recent years, there are intermarriages between the people of both countries, the Bill, if passed into law in Malabar, cannot but have some beneficial influence on the Marumakkathâyam people in Travancore. The strictly joint-family system which permits and virtually knows no partition of the Tarawad property, does not seem to prevail with the same rigour in this country as in Malabar. Here branches of the same Tarawad, somewhat removed from each other, voluntarily effect divisions; and the wife, who in Malabar seldom leaves her Tarawad, is here in several instances allowed to live and mess with the husband. The change contemplated in the Bill appears therefore to be likely to be felt to be far more striking and sudden in Malabar than in this country.

Adverting to para 4, I have reason to believe that the educated portion of the Malayalees are not satisfied with the existing custom in respect of marriage, and would hail any measure which will have the effect of making the marital tie more real and binding than is unfortunately the case now. I understand that some six years ago, a few of the educated Malayalees of this place formed themselves into a Committee with a view to take the sense of their country-men as to the expediency of moving for a change in the law, or rather the custom, regulating their marriage. Beyond drafting a Bill and circulating the same among some of the prominent members of their community, the Committee seems to have done nothing; but the fact seems to indicate the nature of the feelings of the educated classes in this matter.

There is no doubt that the exceedingly lax system of marriage, which obtains among the Marumakkathâyees is, in reference especially to the advancement which is common with their Makkathâyee brethren, they have been making in recent years, a solecism; and some change which would considerably mitigate, if not completely

remedy the evil, without sapping the foundation of the Marumakkathâyam system, appears to be called for even on grounds of morality. This, I am glad to say, appears to be the opinion also of some of the prominent members of the Nayar community here. They seem to view some parts of the Honourable Sankaran Nayar's Bill as too far in advance of the popular sentiment. They want simply to make the marital tie legal and permanent, and give the children a right to a moiety of the self-acquired property of the father, and to the wife a right to maintenance out of such property of her deceased husband. In all other matters they would simply follow the ordinary Hindu Law.

Referring to para 5, I would name the following gentlemen as being competent and probably also willing to give evidence before the Commission.

Mr. T. Kunhi Raman Nayar, Puisne Judge High Court.

„ A. Govinda Pili B. A. B. L., Ag. Dewan Peishcar, Trevandrum.

„ P. Thanu Pillay. M. A., Huzur Dy Peishcar.

„ N. Madhavan Thumby, Nagercoil Amma Vedu.

„ M. Kunju Krishna Panikar B. A. B. L., 1st Class Magistrate, Cottayam.

In regard to the last para, I regret I am not just now able to refer you to any work which treats of the marriage customs among the Marumakkathâyees.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) T. RAMA ROW.

ESSAY

ON

Marumakkathāyam Marriage Question

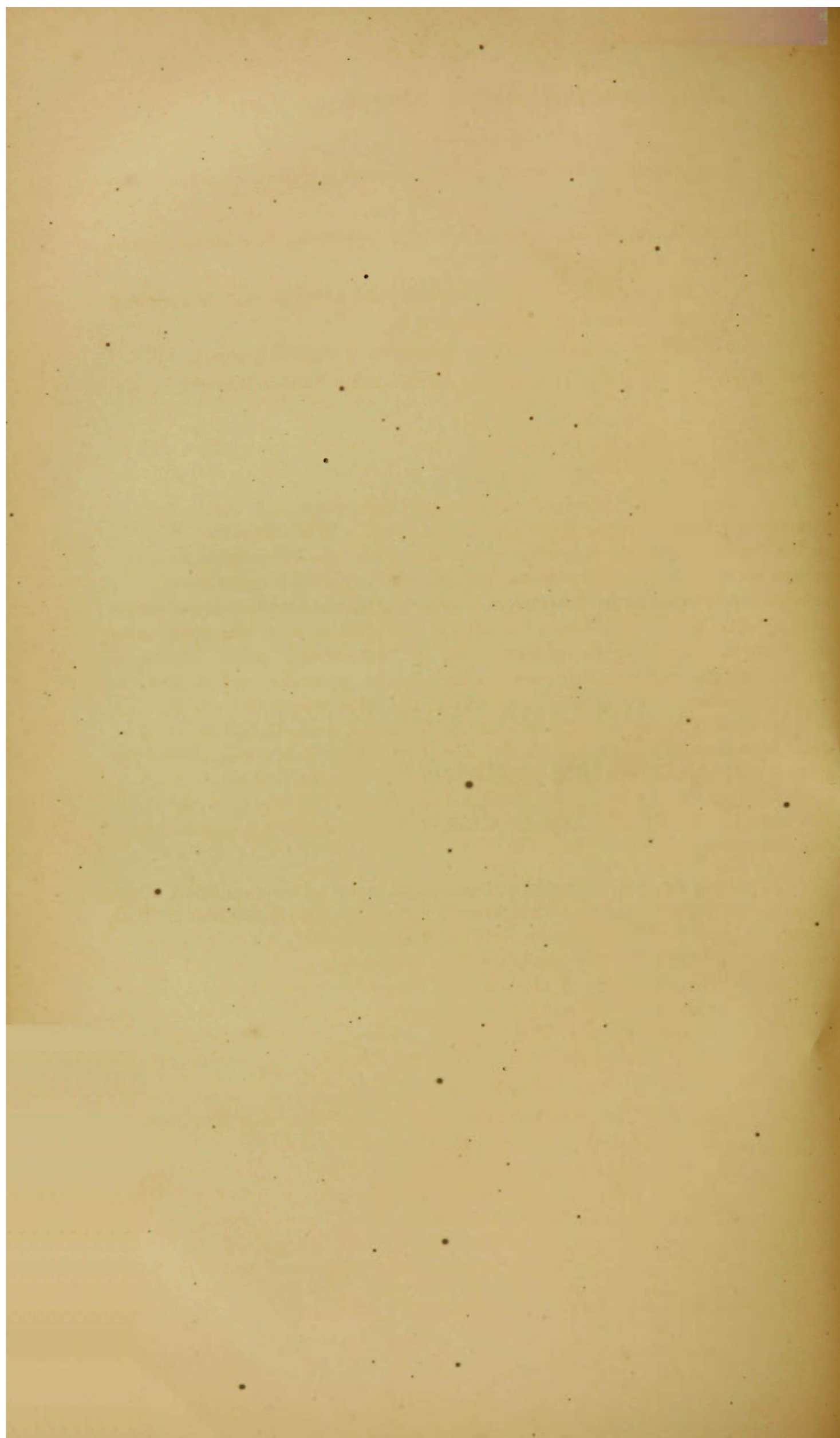
BY

M.R.Ry. A. GOVINDA PILLAY AVARGAL, M.A.,

Dewan Peishcar,

TREVANDRUM.

(NOTE—This gentleman is a Travancore Nayar by birth.)



Marumakkathâyam Marriage Law.

1. In discussing this subject it will be convenient to treat it under the following heads.

- (1) Description of the existing custom of marriage, among Marumakkathayees.
- (2) Its legal consequences.
- (3) What are the defects of the existing law, and whether there is a general feeling of dissatisfaction in regard to it.
- (4) On what lines a change would be desirable and on what grounds, and
- (5) Whether the changes proposed in Mr. Sankaran Nair's bill would be desirable.

I shall first consider the 1st question. Then the 2nd and 3rd together, and so also the 4th and 5th, and close with a summary of the changes that I would propose.

2. Meaning by "marriage" cohabitation between man and woman for life until formally dissolved, apart from any right of heirship attached to such union, in various degrees under various systems of law, such unions are formed with Malayalee women, not only by Malayalee Sudras, but also by men of all the higher castes. A proposal is first made by the husband, or his relations, to the intended wife or her relations. The latter's horoscope is delivered to the former to see if the stars agree and if they do, for fixing an auspicious day (or Muhûrtham) for the union. A muhûrthachârthu is prepared in consultation with an astrologer, and delivered to the girl's relations. The date being thus fixed, the bridegroom with his friends and villagers meet at the appointed hour at the bride's house, where the latter's villagers would be assembled. At the auspicious hour Dakshina (*presents in money*) would be given to Brahmins, and the bride, being led out by some female relation, is formally presented by the seated bridegroom, after due salutation with a few pieces of cloth. The feasting follows this; and from the date of this ceremony, the parties become man and wife.

3. Some say that this ceremony is accompanied by Ashtamangalyam *i. e.*, the procession of ornamented girls with lights and rice-pans. This is common in Travancore only for the Thâli-tying, or Kettukalyânânam ceremony, which has practically nothing to do with the marriage followed by cohabitation above described. Again some say that the presentation of cloth is made always in a particular room in the house. It may be so in particular places, but there is no general rule on the subject. It may be the southern room, or Thekkêmuri in Malabar, but in Travancore it is generally the arappuray, or interior nalookettoo (quadrangle) of the house, or the Eastern Erayam or verandah.

4. The above is the marriage ceremony, or Sambandham, as it is called. I will next consider its consequences. From the above description it is evident that there is no religious element in the union. Some have likened it to marriage among Nambudiris; but the latter have Homam, which Malayalis or indeed any other Sudras, do not, and cannot, perform. There are, it is true, some traces of religious rites in the kettukalyânânam ceremony, such as, Bhûthakkalam (the serving out, of rice and curries to Bhûthams*), the pouring of water into a palmyra leaf, held by the bride

*Note—Bhûtham=a demon generally malignant; sometimes a guardian spirit.

and bridegroom, and Ashtamangalyam. But the kettukalyânam is practically nothing more than a ceremony of introduction of a girl to womanhood, and has nothing to do with the conjugal union, unlike the marriage between man and woman under Hindu Law; therefore the Sambandham between a Malayali man and woman has no religious element in it.

5. Let us next consider the subsequent relation between the parties, following upon a Sambandham as above described. In South Malabar and North Travancore, the wife is rarely taken to the husband's Tarawad. In South and middle Travancore, the rule is the other way, the husband always taking the wife to his own Tarawad for cohabitation. Where the wife is left in her own Tarawad, she of course passes her time in the company of her Tarawad relations and her friends, the husband visiting her in the night, and at other times as he can find it convenient. In these cases it is evident that the wife and children do not move in the company of the husband, and the latter derives no help in the management of his household affairs from his better-half.

6. Either party can dissolve the union at any moment. It is said that such dissolutions are very rare. Respectable families do consider it a disgrace to dissolve such unions without sufficient cause. But there is no doubt that under the customary law, both the wife and husband have absolute power to divorce each other without even assigning any cause. It is true a social stigma does attach to people who treat so lightly the marriage union. But such stigma attaches also to habitual liars and drunkards. Many people do avail themselves of the liberty, in the same manner as many are habitual liars and drunkards. There is no more a legal sanction against the former than against the latter.

7. As a logical consequence of this liberty of dissolution, adultery is no criminal offence. The High Court of Madras held that in the case of parties governed by the Aliyasantânam law, adultery with the wife was no criminal offence, as the union could be dissolved at any time. Though the point has not been expressly decided under the Marumakkathâyam law, the principle of the decision applies equally, as both laws equally consider the mother, and not the father, as the source of family relationship, and therefore attach no permanence to the union between man and wife. The fact that respectable Malayalis do consider it a grave moral offence, cannot justify the visiting of the act with criminal consequences consistently with the liberty given to the wife to dissolve the union whenever she pleases; for the wife may plead that she dissolved it the moment before she received her paramour. On this point therefore clearly the moral sense of Malayalis is in advance of the law.

8. Next as to the children: as to those places, where as already stated there is no cohabitation in the proper sense of the term, the children are practically not under the influence of the father, and the latter has very little to do with their education. They are looked after by the Karanavan of the Tarawad, who sometimes no doubt is a close relation of the mother, but is generally a distant relation of both. Where cohabitation does exist, no doubt the wife is useful to the husband in the management of his affairs, and the children are looked after, and educated by the husband. But in most cases the wife lives in constant dread of the Tarawad relations of the husband, and her anxiety as to the future of herself and children in case the husband dies without providing for them, places her interests in constant

conflict with those of the Tarawad members; and with the exception of Tarawads whose ample means place them above the possibility of want, the union far from being a source of happiness, occasions constant annoyance and unhappiness.

9. The husband cannot claim the children, whose legal guardian is the Karanavan of the Tarawad, who generally is some remote kinsman, and cannot possibly have the same regard for the welfare of the children as their father, and who in obedience to natural impulse, will be rather inclined to care more for his own children, and those of his nearest relations, than those of his distant kinswoman.

10. At the husband's death, the wife and children though they join in the funeral ceremonies, and observe pollution as *shêshagârs* (*relatives*), cannot generally legally claim any share of his property, or even maintenance. In North Malabar, maintenance is allowed to the wife and children by special usage. Among the *Thiyan*s of Travancore the sons get a half of the self-acquired property left by the father. In South Travancore too, among the Nanjenad Vellalars, the wife and children similarly get a certain fraction of the father's property $\frac{1}{4}$, $\frac{1}{7}$ or $\frac{1}{10}$. But these usages are confined to particular clearly-defined sections of the Marumakkathâyis, and the rest never think of advancing any claim based on such usages. Under the existing law therefore the latter, who form the great majority, can claim as a matter of right no part of the father's property. It is true respectable families always make some provision for the children of the deceased. But even among them the allowance will be hardly in proportion to the property left by the deceased, and therefore barely sufficient to bring up the children in the condition in which their father left them. It is true that in Travancore, the wife gets some nominal gifts, such as a few pieces of cloth, a cot or spittoon of the deceased, and the son sometimes his earring. But these are given more as a matter of ceremony. In the generality of cases in Travancore, wife and children get nothing from the husband's Tarawad relations after his death. The existence of even a few of such cases would be a sufficient ground for legislative interference with a custom, which the moral sense of the Malayalis pronounces to be unnatural. For a change in the law giving the children a share or maintenance, while it will do no harm to those who already do make some provision, will do good to innumerable wives and children, of well-to-do men, whose property now goes to enrich their Tarawad alone.

11. It will be seen from the above,

(a) that the existing practice as to marriage among Malayalis, *Sambandham*, has no religious significance in it,

(b) that it is not necessarily followed in all cases by cohabitation as husband and wife,

(c) that in those cases in which it is, it is the cause of constant anxiety and unhappiness to all parties concerned,

(d) that the union may be dissolved at any time by the will of either party. Indeed even the fact of its occurrence is too often denied,

(e) that adultery with the wife is not a criminal offence,

(f) that the person who naturally has most concern for the children, *i. e.* the father, has no right of guardianship, which is generally possessed by some re-

mote kinsman of the mother, whose regard is based on power and association alone, and not on natural affection,

(g) and that at the death of the father how muchsoever he may have acquired, no Malayali except a few excepted and clearly defined sections, can claim any part of such acquisition as a matter of right. These are the legal consequences of marriage among Malayalis.

12. I proceed next to consider the defects of the custom above detailed, and the state of public feeling with regard to it at the present day.

13. If woman was created to serve as man's helpmate, and the union of the two was intended to promote the happiness of both, and the careful nurture of the rising generation, the Malayali system of marriage not only fails in accomplishing these objects, but defeats them. It must be distinctly understood that I do not mean to assert that respectable Malayalees treat their wives as the customary law allows them to do. The fact however is that not a few take advantage of it, and I am speaking only of the custom which allows such license. There can be no doubt that conjugal affection, *i. e.* the mutual love of man and woman as husband and wife, strengthens the educated affection arising from constant association and the exercise of power. The relation between father and son will therefore be naturally stronger than that between the father and his sister's son. The law therefore which ignores the former relation, and substitutes for it the weaker tie, is deficient in the factor most conducive to human happiness, and the advancement of the rising generation. The instinctive feeling of animals, the usage of all civilized nations known to history, and even the feeling of enlightened Malayalis all point to the soundness of this view.

14. Considering its importance, it is evident that the sanctity of this union ought to be guarded by every possible sanction, and ought not to depend for its permanence on the mere caprice of either of the parties. Every means therefore ought to be welcome which can help to secure permanence to the conjugal union, and check capricious dissolution, consistently with the happiness of the married couple. Some contend that the existing system by keeping the wife in constant dread of divorce, has an advantage over other systems. No doubt, such dread is beneficial to society in the case of ill-behaved women. But the law is evidently productive of evil in the case of husbands who want to put away grown-up women, from the worst of motives. Public opinion has been found too weak to check this practice in too many cases. The law therefore, while it works some good, is also productive of much evil, and if some measure can obviate the evil and at the same time secure the good, surely that must be adopted, and I think such an arrangement is not impossible.

15. Under the present law, even the fact of marriage may be denied with impunity, the union beginning in not a few cases even without the formal present of clothes. Even as to the cloth-giving ceremony, a formal deed of marriage duly attested by respectable villagers and registered as other instruments under the Registration Act, will give additional security to the union. This will give due publicity to it, and will make it impossible afterwards to deny the fact of marriage. If similar publicity can be insisted on, for a dissolution of the union, capricious divorces will be effectually checked. The opinion of enlightened Malayalis is decidedly in favour of securing some such safe-guard to their marriage-union.

16. Apart from the obligation that the change will impose upon the husband, the fact of marriage could not be disputed in charges of adultery, which, it is the unanimous wish of all Malayalis, ought to be made a criminal offence. Some say that in some parts of Malabar adultery is savagely avenged: and in fact many murders have been committed by people having been compelled to take the law into their own hands. This, far from being a circumstance against the necessity of the change, is a strong argument in favour of it, for it shows that the change while it will do no harm, would be in perfect harmony with the moral sense of the public, and will obviate the necessity for private vengeance.

17. As the object of the union is to secure the happiness of husband and wife and the due nurture of children, though all possible safe-guard should be provided against capricious divorces, yet in cases of a mutual desire to separate, owing to incompatibility of temper or of proved adultery, it would lead to the unhappiness of the married couple if they are compelled to continue cohabitation. The Hindu Law, it is true, does not allow divorce in either case, because in the former case it would be against its policy to allow the parties even to think of disagreement, the wife being always bound to yield; such however is not consistent with modern notions of an independent individuality in the wife, and all systems of modern law do allow divorce in other cases than adultery. Divorce by mutual consent may be sometimes conducive to the happiness of both parties. To prevent a frivolous exercise of it, it would be enough to deprive the parties of mutual claims on each other, and as the children already born ought not to suffer owing to the disagreement of the parents, the dissolution ought not to affect their rights. A conviction for adultery may be made to stand on the same ground as dissolution by consent of both parties.

18. Next as to the guardianship of the children, as already observed natural affection points to the father as the fittest person to look after his children, fitter in every respect, than a remote or even very near, kinsman of the mother. I have already pointed out that in the case of the father, natural affection supplies an additional safe-guard to the due exercise of the functions of guardianship, apart from those of association and "power," which exist in the case of the Karanavan. It is said that the mother, and mother's relations are the fittest persons for guardianship. Of course to those who think it unnatural for grown-up and married daughters to separate from the company of their mothers, it may seem strange to give the guardianship of children to their father. But those who think that woman was created as man's helpmate, that as such she has certain duties to perform by keeping constant company with her husband, and not be merely frequently visited by him, and that no one can have such care for children as he who begets them, I say these, will be of a contrary opinion. It is hardly too much to say that the opposite view entirely ignores conjugal cohabitation, and thus strikes at the root of the main object of marriage, and the theory of civilized nations, that the wife is the husband's better half which is taught even by our great national literary work (പാതിയും മനുഷ്യകുടുംഭം ഭാര്യ എന്നറിഞ്ഞാലും മെരിനിപതെ ഭാര്യ വലിയ സഖിയല്ലെ)*

19. In connection with this question, the high authority of Manu has been invoked to support the mother's right. It is said that Manu says that the soil is more important than the seed. It is a sufficient answer to this to say that the same law-giver most distinctly recognised the father, and not the mother, as the source of family relationship and gave the right of guardianship to the former.

* NOTE.—"Know ye that the wife is the half of man : oh king ! a wife is a great help-mate."

20. It has again been alleged that the past generations of the Nair community were remarkable for their spirit of independance and a feeling of fellowship, and that all this was due to the government by karanavans. That the Nairs were so distinguished, and that no few of them distinguish themselves now, is undisputed. There has also been a feeling of fellowship, or clanship, which has commanded the admiration of European visitors. But this could in justice be no more ascribed to the rule of a karanavan, than the Hanseatic League or the Heptarchy of Mediæval Europe. The same martial spirit and union, and perhaps to a higher degree, prevailed among the Rajputs, and yet they were utter strangers to karanavanship.

21. It is again said that the numerous members under the common Tarawad roof constitute a school for a training in sympathy and brotherhood. This is to a certain extent true, especially in the case of Tarawads possessing extensive property. But it is difficult to understand why the Tarawad alone should have such a monopoly of training in preference to the paternal roof.

22. It is no unusual sight in Travancore to see children, who were brought up in good circumstances by a hard-working father, literally neglected by the karanavan after the father's death. It is a well-known fact that most Malayails, whose karanavans are distant kinsmen, owe their education to their fathers.

23. I come next to the question of maintenance of the wife and children, and the absence of any right in them to claim any part of the father's earnings. That a man who begets children should be under a legal obligation to maintain them could be hardly disputed as a maxim of justice and sound policy. No man is under an obligation to marry. On the contrary public policy requires that he should not do so until he is in a position to make some provision for his children. For, otherwise by increasing the number of mouths to be fed, he by his own voluntary act increases the demands on the existing food-supply of the community, and therefore to that extent impoverishes it. As the father, more than any one else, is responsible for this multiplication, it can hardly be doubted that the responsibility for making a provision for the children ought to rest primarily on him. This is a dictate of natural law and the rank, position, or caste of the father ought to make no difference in the case. In the simple but forcible language of Sir Arthur Helps "There are few things clearer to the human mind, 'to saint to savage and to sage' than that a father owes duties to his children. The dullest savages have seen that. Even Lacedemonians, if they put off individual fatherhood, only did so by throwing it on the community. How can a man for a moment, imagine that any difference of rank (a mere earthly arrangement) can absolve him from paternal duties? I am lost in astonishment at the notion. And then imagine a man performing all manner of minor duties neglecting the first one, the while. I always fancy that we may be surrounded by spiritual powers. Now think what a horrible mockery it must seem to them, when they behold a man going to charity dinners, busying himself about flannel for the poor, jabbering about education at public meetings, immersed in different forms and ceremonies of religion, or raging about such things because it is his duty he tells you; and at the door, holding a link, or at that moment bringing home the produce of small thefts in a neighbouring narrow alley, is his own child a pinched-up, haggard, out-cast, cunning-looking, little thing. Throw down man the flannel and the soap and the education and the Popery and Protestantism, and go up that narrow alley and tend your child: do not heap that palpably unjust burden on a world which has enough at all times of its own to

bear. If you cannot find your own child, adopt two others in its place and let your care for them be a sort of sinsuffering. These are indignant words, but not more so than is right and I will not suppress one of them." (Companions of my Solitude. p. 160.)

24. Indeed, the moral obligation is hardly denied by any one. The great majority are in favour of giving the wife and children maintenance out of the earning of the father. Some there are who contend that it is no hardship to the sons as they will get maintenance from their Tarawad. But this is no answer to the questions whether the sons have not a natural claim on the father's property, at least for maintenance. If A has a moral claim on B, it is no answer to say that he may be otherwise provided for by C, a third party. The natural Tarawad may be too poor to provide adequately for the maintenance of the children in question. Further it must be remembered that the appointment of maintenance to the children from the Tarawad amounts to the proportionate impoverishment of the numbers of the latter in consequence of a multiplication for which they are in no way responsible, while it holds out a temptation to multiply with impunity, which is admittedly opposed to public policy.

25. The law of Travancore does not, as it stands at present, give the sons distinctly the right even to claim maintenance. The moral sense of the public is decidedly opposed to this state of things; nay, it even goes to the extent of demanding a certain share of the father's separate acquisition for the wife and sons. As already observed the Thiyars of Travancore do give such half to the wife and children, and the Nanjanad Vellalars give $\frac{1}{4}$, $\frac{1}{7}$ or $\frac{1}{10}$ according to circumstances.

26. The reasons already given for giving maintenance to the sons apply more or less to giving them a legal right at least to a share. There is hardly a respectable Malayali who does not make some such provision for sons. In most alienations which Shêshagârs (*heirs-at-law*) sue to cancel, the ultimate object is to make some provision for the wife and children of the alienor. At the present day various attempts are made by the father to effect this object secretly, although the general moral sense of Malayalis is in favor of making such a provision. There is surely some defect in the law which obliges people to resort to secret disposals in the performance of a duty which the public conscience admits that the father owes to his children. It is the duty of the law to afford facilities for the performance of a duty, the binding force of which is universally felt. For, unless the law interferes and helps with its sanction, the selfish instinct of individuals will raise difficulties in the accomplishment of any object, though its desirability be universally admitted. Permanence to the marriage union and continual cohabitation being secured by registration of marriages, there would be no difficulty in establishing paternity. The law ought to carry such intention into effect by giving the son a definite share of the father's acquisitions such a share as the father himself is likely to have given if alive.

27. Some say that such a law is unnecessary as Malayalis give some property always to the sons. That respectable Malayalis do make such provision especially in the North, I admit. But there are thousands of families which don't do so. If the Law fixes such a share as Malayalis ordinarily give, while on the one hand those who now virtually observe the rule will not be disturbed, it will secure the performance of a similiar duty by the few who would gladly evade it if possible.

28. Some say that as succession to property is closely connected with religion, by prescribing rules for its devolution, the legislature would be interfering with religion. The only religious rites of Malayalis are the observance of pollution and the performance of Shrâdha. I have already remarked that both are performed by Malayalee sons. As to pollution it is always understood that the son observes it. So far therefore as the father is concerned, the son is not outside the pale of religious affinity. How could it possibly be otherwise when, in fact, the Malayalis got their religion from the Hindu sages who always recognize the son as the first and most effective offerer of the funeral cake? There could therefore be no objection to give the son a share of the father's acquisition on the score of religion. Admittedly no religious question is raised when a man disposes of his separate acquisition in his life time. A man may dispose of all his separate acquisition to a christian before he dies, and the Shêshagârs cannot legally question the validity of the act. Why then should religion be invoked if the law does exactly what the owner would have done in the performance of his duty to his sons?

29. Some again contend that the change would be introducing discord and unpleasantness into Tarawads, where they say perfect harmony and good will have always prevailed, and that it would lead to the disruption of Tarawads and ultimately lead to confusion. These arguments have no, doubt, some force in case the Tarawads are to get no share of the self-acquisition. But if, as they admit, the sons are always provided from the self-acquisitions in respectable Tarwads, the giving of a share would be the doing of what each Tarawad thinks it proper to do, and there is no room for discord. As to less generous Tarawads, there could not be more unpleasantness than exists at present, in consequence of frequent attempts of the father to perform his duty to his sons; while on the other hand the fixing of a definite share will make each party to understand what he can expect, and so far would remove some grounds for anxiety. Under the existing law, a Maroomakkathayee who has only distant Shêshagârs, and who has made no provision for children, is under constant anxiety in his last moments. The distant Shêshagâran who is near enough for inheritance gets all, while the persons nearest to his heart have not even a distant right of inheritance. The poor man's death enriches the legal heir and impoverishes his children. Instances are not rare in which Karanavans under the above circumstances, petition the authorities to protect them from their distant Shêshagârs. But the above apprehension of discord and confusion is a little inconsistent with that "sympathy," "perfect good will" and "harmony" which they say exist in Tarawads, in consequence of the exercise of a "benevolent despotism" by the karanavan. It is very strange that the sympathy and good will which can educate itself to look with brotherly feelings on the daughters of most distant cousins, living under the same roof, cannot extend itself to the sons of an elder or younger brother, but should look upon the latter as strangers. All that I ask is that the circle of sympathy and disinterestedness existing in Tarawads which they say develops itself into "patriotism," should first extend itself to the children, who admittedly stand in a much nearer degree of blood relationship than many other members of the Tarawad. The arguments urged in favour of the joint family system, as a most effective instrument for the cultivation of the family affections, as a fitting school for the responsibilities of public life, and also as obviating the necessity for a poor law, are all sound. They apply, however, to Makkathayam families at least equally as to Maroomakkathayam ones. However that may be, a slight extension of the sphere of the Tarawad sympathies in the right direction, i. e. to

those who are nearest in blood relationship cannot deprive the existing system of its beneficial effects. It must be granted however that the total disinherison of the Tarawad in respect of the father's separate acquisitions, would lead to disunion, unpleasantness, and the gradual extinction of the Tarawad system.

30. It will be too late in the present condition of the world's progress, totally to ignore the individuality of each member of the Tarawad, as those would do who are for appropriating to the Tarawad all the earnings of each member. If sons stand nearest to a man's heart in natural affection, the disallowing them a portion of the earnings, would be withholding to a certain extent the inducement for exertion in the father. The extinction of individuals in the general family system, did have its value in an earlier age of civilization, under the patriarchal system of which the Tarawad is the latest survivor. Under such a system, there was no separate acquisition for each member, and no partition, and the head of the family had despotic power over the other members. But these are inconsistent with modern enlightenment, and they have accordingly been superseded in all enlightened countries, and are being virtually superseded in Malabar with the progress of education. It is said that the Tarawad may engage in joint speculations, and that a joint-stock company of relations would work better than one composed of strangers. This would no doubt be true, if all the members have good business capacity, which unfortunately is not governed by Tarawad relationship. A system that does not recognise individuality is highly detrimental to the growth of enterprise, and the progressive development of the nation.

31. Some contend that a change in the existing law will cause a diffusion and dissipation of wealth, which now accumulates in rich Tarawads, and thus perpetuates aristocratical families. The interests of the community as a whole, *i. e.* according to the principle of the greatest happiness of the greatest number, which is also cited by those who urge the above reasons, are according to sound principles of political economy promoted by any measure which tends to the diffusion of property rather than to its accumulation in a few hands.

32. Some say that the proposed change will introduce heirship inconsistent with the accepted notions of Hindu Law, by giving for instance to the children of a Brahman, or Kshatria, by a Sudra woman a legal right to the separate acquisition of their father, to which the Brahman relations would be heirs. There are it is true many highly respectable members of the superior castes who look to Sudra families for wives. It might be injudicious to throw any obstacles in the way of such unions. But it is difficult to see why even in such cases the Sudra sons should not get a share of the father's self-acquisitions. The practice now is to make ample provision for them from such earnings and in fixing a share the law will be simply legalizing that practice. The old Hindu Law did give such a share to Sudra sons and such cases of Marumukthayam sons claiming from Makkathayam fathers are not unknown to Malabar Law (see the case reported at p. 238. I. L. R. Madras). It may be said that the passing of the law is unnecessary as in most cases such provisions are made, and in such unions the wife will hardly require a legal sanction. This objection will be fully removed by giving the legal share only to the offspring of registered marriages and making registration optional. In the case of respectable and well-to-do high caste men such registration may not be necessary, and the altered law will not apply to them. But with regard to others, the heirs will not be deprived

of anything more than what under the existing Hindu Law, the deceased may himself dispose of by gift, alienation, or will. Then as to the principle of taking off a share of the self acquisition of a high caste man to be given to one who is a stranger under the Hindu Law, it rests on the same ground on which I have already rested the right to bare maintenance.

33. Some apprehend confusion and increase of litigation if makkathayam is brought into existence side by side with marumakkathâyam, and they point to the litigation in Mâpilla families in Malabar. This however is not felt in Travancore among Nanjanad Vellalars and Thîyars, who have a peculiar usage as already stated, and as to Malabar it is a question whether the increase of litigation attributable to the co-existence of the two rules of inheritance, is more than the increase due to alienations by Malayalis to make provisions for sons. If this question is answerable in the negative, then the change in the law will be productive of some good and no harm.

34. One difficulty that has been suggested, that namely of determining the extent of a Karanavan's self acquisition for the purpose of division is no doubt a real difficulty. The amount of litigation is great even now, notwithstanding the presumption in favour of Karanavan's acquisitions being all made from Tarawad funds. It will be more when it becomes necessary at the death of each Karanavan to ascertain the exact amount of his self acquisition for the purpose of division. To apply the existing Law to registered marriages, would be virtually denying a share to the sons, for it is very rarely that with the burden of proof on them the sons can make out self acquisition. On the other hand to create a general artificial presumption opposed to the existing one, would not only be an encroachment on vested rights, but would also be unreasonable as a Karanavan being in the Tarawad and working with the other members of it, ought in fairness to be assumed to have made all accessions by the joint exertions of all. The rule is one of general justice applicable to all trustees and also to managing members under the Hindu Law.

35. It is hardly possible to propose an unobjectionable measure that can fully obviate this difficulty. It may however be suggested that as the question generally arises only between the shêshagârs of Sudra fathers and their sons, and as the object of the altered law will be to promote cohabitation between the Karanavan and his wife and children, it would be only fair that the latter too contributed towards the increase, quite as much as the shêshagârs where all live together. In such cases therefore it would not be a violent presumption to hold that the wife and children and the shêshagârs equally co-operated with the father in making the acquisition in the case of registered marriages. In such cases therefore the principle of equal division of the Karanavan's acquisition between his Tarawad, and himself and children, may be applied. This half may be considered as the Karanavan's separate acquisition for division between shêshagars and sons. In the case of registered marriages, it would be the interest of shêshagârs to make all really Tarawad acquisitions in the names of others than the Karanavan, as they know that otherwise they would have to divide them with the sons. But no acquisition made under the existing law, where cohabitation has not begun under a registered marriage, and on which therefore the existing legal presumption has already operated, should be affected by the above rule.

36. I have thus considered the defects of the existing system of marriage, and its consequences to the wife and children. A change of the marriage system

is demanded by educated Malayalis and would be welcome by all classes of marumakkathayees. The obligation of making some provision for wife and children from the earnings of the husband is universally felt, and a legal recognition of such obligation would, far from increasing litigation, diminish it by removing one of its main sources. I have also considered the objections that I have seen and heard urged by some against a change. Such objections however seem to me to have reference to the total disinherison of the Tarawad in respect of self acquisition, and the consequent gradual destruction of the Tarawad system. But I do not apprehend any serious opposition to a measure which without going to that extent may give the children a substantial share of the self acquisition of the father. There may be some opposition even to this limited change. But such opposition can come only from an interested and insignificant minority, and should have no weight in an enlarged view of public policy. Nevertheless, to be on the safe side, legislation on the subject may begin with a permissive Act. There can be no reasonable opposition to such a procedure.

37. I next proceed to complete the discussion of the 4th division of the subject, *i.e.*, on what lines I would propose a change and on what grounds. It will be seen that under the preceding head, *viz.*, the defects of the existing system, I have also discussed most of the changes that I would propose, and I have done so as I thought it best to place the proposed remedy side by side within the diagnosis of the disease. Before summing up the changes I would propose, I shall state shortly the principles that we ought to follow in legislating on the subject.

38. (1) A change in the law of marriage, and devolution of separate acquisition ought to be made agreeably to the moral sense of the community.

(2) Provision ought to be made to secure permanence to the marriage union and to ensure its continuance.

(3) The change should go no further than is required by the altered moral sense of the community.

(4) The change ought to be in some known direction.

(5) The provision for sons, while it satisfies a felt necessity, ought not to place inducements to idleness, and should promote a healthy diffusion of property as far as possible.

(6) Some arrangement ought to be made which will enable the father to remedy the inequalities of the law, as, otherwise, the attributes of ownership would not be complete.

(7) Though the change may be in the right direction and based on sound principles, yet it is safer, to begin legislation as a tentative measure, and pass only a permissive law.

39. In the first place I have already stated that the necessity for a permanence in the marriage law is universally felt, some durable evidence as to the fact of marriage, and a guarantee against capricious dissolution. Registration of marriages would secure a permanent record of the union, and as important consequences are to follow that union, it is necessary that the event should be placed beyond the possibility of a denial. It is resorted to in civilized countries, and would be highly useful for purposes of Government. It is true the people are not accustomed to it now, but when they see that it is harmless while it is productive of much good

they will become as accustomed to it as to the taking of the Census. It is true that marriage under the Hindu Law is never denied though there is no marriage register. If marriages among Malayalis were equally free from repudiation, there would be no necessity for registration. But unfortunately repudiation is by no means uncommon. The absence of the religious element is another reason for resorting to all available means to secure evidence of the union. It would be desirable to enact that marriage coming under the Act ought to be registered under the Registration Act, the deed being drawn up in the presence of the leading villagers and attested by the local officer. A registered marriage may be presumed to continue until a dissolution deed is similarly registered.

40. The moral obligation to provide for wife and sons is universally felt. I have already discussed the grounds on which maintenance and a share from the self-acquisition ought to be provided.

41. Granting that the above changes are felt as a moral necessity, it would be hardly consistent to object to them on the ground that the law ought not to be changed to suit the convenience of particular individuals, or even particular sections of the community, as the provisions of the law are all based on public policy. Those who contend this are, no doubt, right in saying that the law is based on public policy, but they ignore the fact that public policy changes with progress. The policy of the ancient Hindus gave the sanction of marriage almost to every casual union between man and woman, and there were 8 sorts of marriages as they called it. This policy changed with progress, and at the present day we have practically only two sorts of marriage, the Bramham and Asooram. It was the policy of the ancient Hindu Law to ignore self-acquisition and to give the father absolute power to divide ancestral property as he liked. The gradual recognition of individual, as distinguished from corporate, existence necessitated a change. The Hindu Sages wisely provided "good usage" (Sadâchâram) as one of the sources of law. The function of the sage is now performed by the Legislative, which in the exercise of its wisdom and foresight ought to make such changes in the law as are called for by the moral needs of the community.

42. But, thirdly, no change ought to be made, however good in the abstract, unless demanded by Sadâchâram and the moral needs of the community. Permanence should be secured to the marriage union, and the wife and sons must get maintenance and a share. To secure the former, it is not necessary to go through a preliminary investigation first before the Registrar, and then before the District Judge, or to solemnize the marriage before the District Registrar, or to carry on a divorce suit in public court at the instance of either party. Such procedure will be quite antagonistic to the feelings of a community whose females, unlike European ladies, would consider it a disgrace even to appear to give evidence in a court of justice. These feelings ought to be respected as an interference with them is not called for by the requirements of the case. Dissolution, if both parties disagree, would be desirable, but this may be evidenced by a deed, similarly executed as a deed of marriage and similarly registered. A conviction for adultery may be made another ground for dissolution, at the option of the parties. In the two cases of dissolution, provided for the convenience and comfort of the husband and wife, the children, if any, ought not to be made to suffer. They must get their share in any case. To allow dissolution in other cases would be to encourage conjugal disunion, and will prove detrimental,

to the growth and education of the rising generation, which are the main objects of the proposed change.

43. Again the proposal to allow marriage beyond a certain degree of blood-relationship, but within degrees prohibited under the existing customary law, is another uncalled for and highly prejudicial interference. The existing practice in these respects is in no way inconsistent with the proposed improvement. In these respects we can aim only at improvement and not re-construction. As Sir Arthur Helps says "We are apt to imagine for ourselves a *tabula rasa* in any department of human affairs that we wish to meddle with, and we think that it will be so pleasant to inscribe, as it were upon blank leaves what we wish to indite. The misfortune, however is that there remains hardly anything in human life which can be begun again in this trenchant manner. As an example it may be noticed that several socialistic schemes for equalizing conditions would require a total demolition of most of the buildings which are at present on the earth. Now these buildings represent the work of ages, and the humble improver does not by any means desire to demolish them" (Thoughts upon Government page 155.) What we are is due mostly to what we have been, and though we are not always to be what we are, yet it would be unwise to ignore what we are in deciding what we shall be. I would, therefore, strongly object to the introduction of the provisions of the Bramho and Parsi Marriages Acts among Malayalis. The break up of the Tarawad system which would be the necessary consequence of disinheriting it of all self-acquisition, would be also objectionable on the same grounds. This too is not called for by the necessities of the case, and would be highly resented by the great majority of the Malayalis.

45. 4thly.—The question next arises what provisions ought to be made as to cases of cruelty, insanity, barrenness, and so forth. If any provision on these points is necessary, we ought rather to resort to a system of law well-known to the people, and daily observed and administered before them, and which has had such a salutary effect in promoting the purity and growth of families, rather than one existing under a foreign social organization, the beneficial consequences of which, in these respects, are at best doubtful. I would, therefore, propose that the legal consequences of marriage between husband and wife not specially provided in the act, shall be as under the Hindu Law.

46. I next come to the fifth of the principles noted in para 38 viz., on what data the sons' share should be fixed. I have already stated that the sons ought to get only a share and not the whole. The practice prevailing now among marumakathayees is one of the data on which to fix the share. Many give more than half, while others give much less. Among the Thâyars of middle Travancore, one half is the fraction and this on the ground that the father on the one hand, and the mother and children on the other, must be presumed to have contributed in equal shares to the acquisition. In case of cohabitation, this would, no doubt, be an intelligible principle on which to proceed. I think it would be generally in accordance with public feeling to fix the proportion of children's share at one half of the father's separate acquisition.

47. A distribution of the property of a Malayali between the children and his Tarawad would tend to a greater diffusion of property than if it went to one of the parties alone, and that is for the public good, while in that respect the devolu-

tion of the whole to children alone, is open to the same objection as its accumulation in the Tarawad. The confinement of property now within the Tarawad with all the existing restraints on alienation, too often prevents all improvement, on the principle that "what is everybody's is nobody's." Any arrangement that will increase the incentives to individual exertion would be conducive to public good. It is not sound policy to bequeath large fortunes to one set of heirs, because such bequests, while they withdraw property from hands which would have made a better use of them also increase the inducements to idleness on the part of the recipients. The distribution of a man's self acquisition between the shêshâgars and children will tend far to counteract this tendency and would, therefore, be productive of some public good.

48. I come next to the 6th principle *i.e.* that of testamentary disposition. The existence of this power among the Malayalis as among the other Hindus has been treated as indisputable in recent decisions of the Madras High Court. In the first place the notion of ownership would not be complete without this power. It would be rather inconsistent to allow a man to dispose of property by gift, or alienation, and at the same time to refuse the power of making an arrangement to be effected after death.

In the next place, the exercise of the power would be often beneficial to remedy the inequalities incidental to a division by the law, without a knowledge of the merits of each object which could be always possessed by the testator. Some sons may not deserve a share at all, while some may deserve more. Thirdly there may be strangers whose services, especially in the last moments, may have proved more valuable than sons or shêshagars, and who therefore deserved recompense for such services. I am therefore, of opinion that testamentary power should be allowed to all Malayalis to the same extent as power of alienation *inter vivos*.

49. I come now to the last point, viz., whether the legislation must be made generally applicable to all Malayali marriages or only permissive *i. e.* attaching the marital consequences as to permanency, divorce, maintenance, adultery, and inheritance only to such marriages as the parties choose to register under the Act? If all Malayalis are prepared to welcome the change, there would be no necessity to resort to permissive legislation. If the law is made compulsory on all, it is probable that many high caste men, who now require no compulsion to make ample provision for children, will rather forego such unions. Malayali women will be the sufferers. Again the division of the acquisitions of existing Karanavars in aristocratic Tarawads at present will give rise to some discontent and anxiety in Malabar, whereas that unpleasant consequence may be most effectually averted by allowing the law to work itself as education progresses and as Malayali men and women come gradually to understand its beneficial tendency. It is true that people will be gradually reconciled to the law as they see that it simply enforces what every good Malayali would do. But even this could not be understood at once. It will be the work of time. Last and not least of all, in interfering with established customs, however good and necessary such interference may be, it is wise to proceed by cautious steps, especially when such procedure cannot be productive of evil.

51. It is now for me to state what, according to the above views, is the legislation I would propose. I would propose a bill like the following:

MALABAR MARRIAGE BILL.

1. "Marriage" means the union of man and woman, intended to be for life (unless dissolved as provided in this Act), independently of any ceremonies attending its celebration.

2. Marriage of a Marumakkathayam woman with a Marumakkatayam, or Makka-thayam, husband may be evidenced by a deed attested by leading villagers and a local officer (not lower in rank than an Adhigari) and such deed may be registered under the Registration Act

3. Such marriages shall be presumed to continue until dissolution by mutual consent of parties, embodied in a deed executed and registered as above: or at the option of either party, by a similar deed, in case of conviction for the adultery of the husband or the wife.

4. Except as provided in the preceding section, during continuance of the marriage, all marital rights and duties of husband and wife, including guardianship and maintenance, shall be governed by the Hindu Law.

5. The children born during the continuance of all marriages registered under this Act shall in all cases (including cases of dissolution under section 3) be entitled on the death of their father to one half of the separate acquisition left by the father.

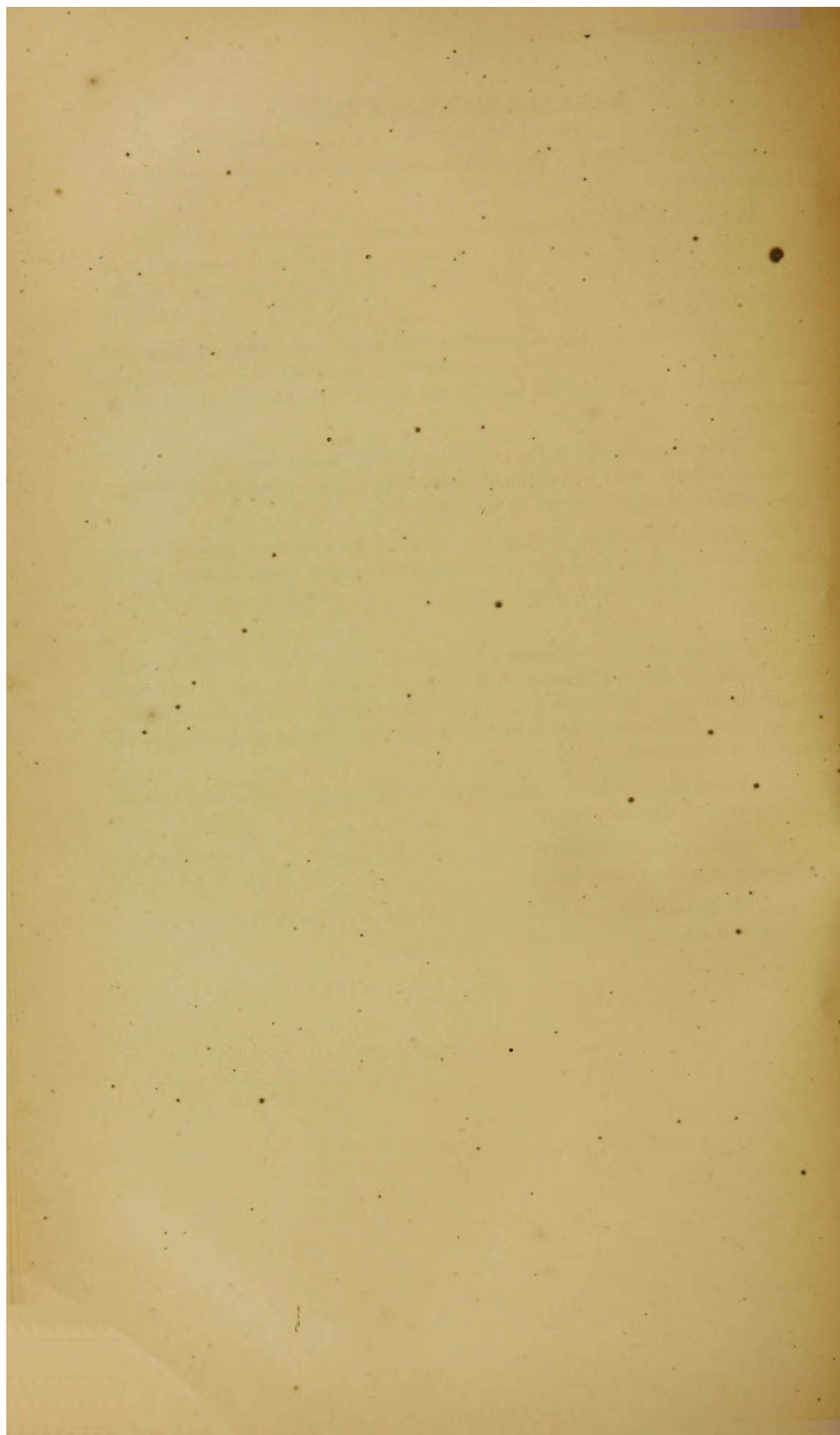
Explanation.—In case of registered marriages under which cohabitation has followed under this Act, of all accessions to Tarawad property from date of marriage made by the husband as Karanavan, not proved to have been made from separate funds, one half shall be presumed to be his separate acquisition for the purpose of division under this section.

6. Every Marumakkatayee shall have the testamentary power to the same extent as power of alienation *inter vivos*.

7. The existing Marumakkathayam law shall apply to all other matters not expressly provided in this Act.

8. Marriages contracted before this Act may be registered under it, and its provisions shall apply only to registered marriages.

(Signed) A. GOVINDA PILLAY.





CALICUT:

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

Answers to Interrogatories

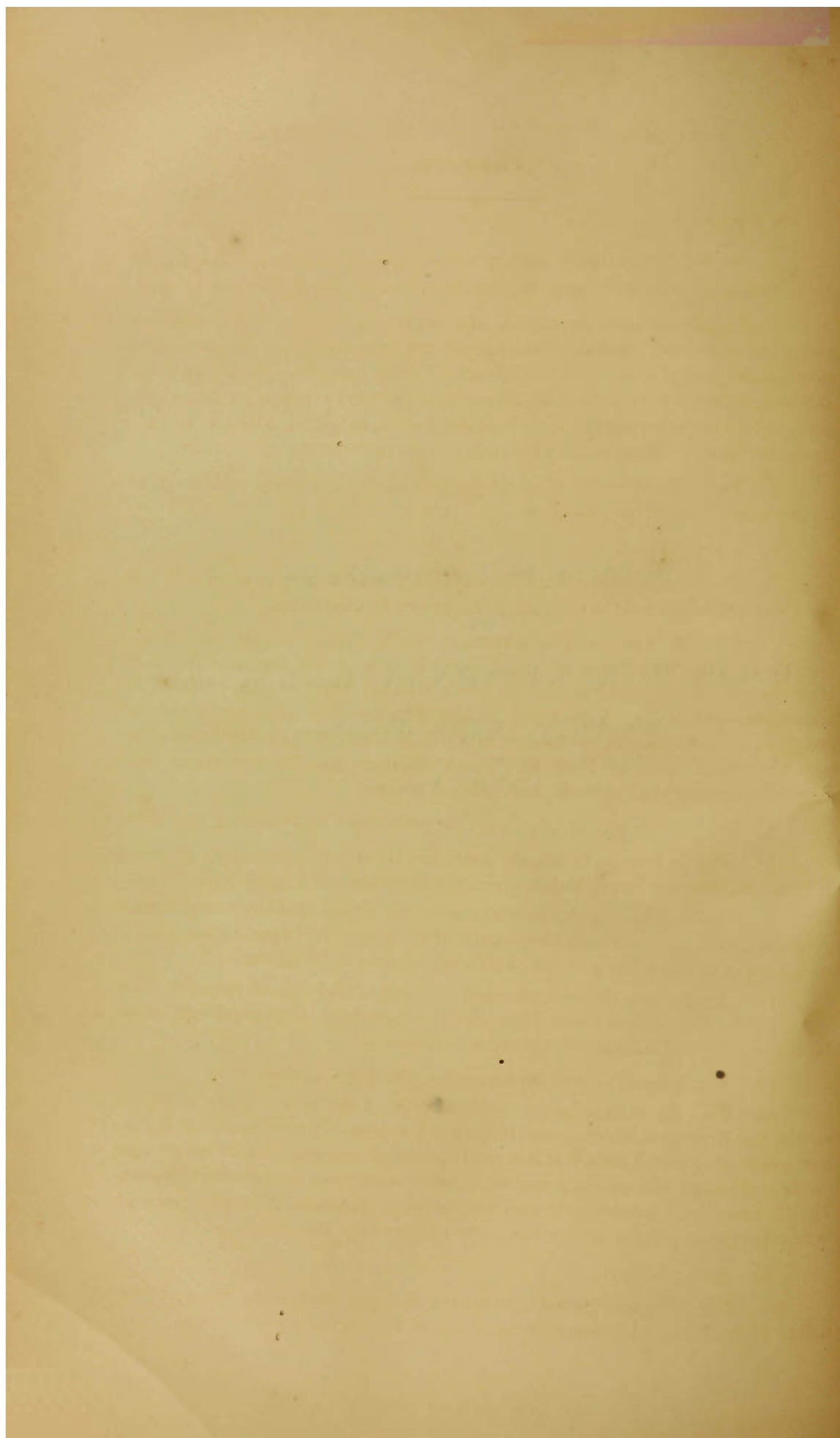
BY

M.R.Ry. E. K. KRISHNAN AVARGAL, B.L.,

Sub-Judge, South Malabar,

CALICUT.

NOTE.—Marumakkathâyam Tiyan of North Malabar.



Answers.

1. Yes.

2. No, but I have heard that in some parts of Cochin and Travancore a Nayar woman is permitted to consort with men of an inferior sub-division of caste.

3. In the instance mentioned, viz, between a *Chârna* Nayar and *Sudra* woman and *vice versa*, *Sambandham* is usually not permitted from pure sentimental objection, or pride of caste. *Chârna* Nayars, of whom one class known as *Parisha Menon* are hereditary servants of the Zamorin, are generally *adima* to some ruling family and do not acknowledge as their equals *Sudras*, so called, who are *adima* to Nambûdiri Illams. Their masters are rather prone to encourage this rivalry.

4. Yes. The delinquents are not invited to festival, or social, gatherings, and not permitted to enter the cook-room.

5. I do not know.

6. The *Kottapuzha*, or Murât River. The principal ferry to cross it in olden times was *Thorashêri* and the river itself was known by that name.

7 and 8. As a general rule Nayars of South Malabar are not permitted to form *Sambandham* with Nayar women of North Malabar. But Nayars of North Malabar are welcome *Sambandhakarans* to South Malabar Nayar women, provided they are not inferior in caste. I can assign no reason for the first mentioned prohibition except rigidity of caste rules observed in North Malabar, and possibly hostility between the former rulers of North and South Malabars, who did not permit inter-marriages amongst their subjects from political reasons.

9. No. But on plea of pilgrimage the prohibition is sometimes overlooked.

10. The prohibition as already stated had its origin in the rivalry of rulers in North Malabar and South Malabar, viz., the Kolathiri and Konâthiri (Zamorin).

11. *Tâlikettu* is a regular marriage ceremony, except that the person selected to tie the *Tali* is not necessarily the husband of the girl. Mr. Logan's description of the ceremony at pages 134 and 135 of his work appears to me correct.

12. An *Enangan* (fellow-caste man) or a man of higher caste than the bride should tie the *Tâli*. He is called *Manavâlan* (bridegroom). Amongst North Malabar Nayars the *Tâli* is invariably tied by a Brahman.

13. Yes, in case it is tied by *Manavâlan* who is not an *Enangan*.

14. No. By custom he has not the right. I can only explain it by the surmise that Brahmans, who colonised the country, successfully tried to abolish regular marriage for their selfish ends, that is to say to permit of concubinage between younger members of Illams, who are not permitted to marry caste wives, and the Nayar women. The miscegenation I believe is the very foundation of Marumakkatâyam rule, though in an ethnological point of view it has vastly improved the Malayali races.

15. None whatever.

16. No. Amongst Tiyanas however the *Enangan* who ties the *tâli* is the betrothed husband, and he is never displaced unless divorce takes place.

17. Yes, I believe when the bridegroom is an *Enangan*.

18. Yes, when the family is very poor and cannot afford to defray the expenses of a Kalyânam. Amongst Tiyan of South Malabar maternal aunt ties it, amongst those of North Malabar the eldest female of the girl's Tarawad ties it.

19. (a) Yes.

(b) I believe so.

20. Yes, in most cases. The *Gandharva* form also prevails in South Malabar. Some formalities are observed, but they differ very much in different localities. The simplest form is for the bridegroom to go to the bride's house accompanied by some male friends, and after giving her some pecuniary present, *Sambandham* is consummated.

21. I do not know.

22. (a) Not the same.

(b) In North Malabar *Sambandham* is of two kinds *Pariamchêyga* (പ്രിയംചെയ്‌ഗ) and *Pudamuri* (പുടമുരി). In the former form which is more akin to South Malabar *Sambandham*, the bride is not taken home by the bridegroom. In the latter case she is. There is a regular banquet given to the united guests and *Dakshina* is distributed amongst Brahmans by the bridegroom if he is a man of means, in *Pudamuri* amongst the Nayars of North Malabar.

(c) I do not know.

23. No. The practice once prevailed in South Malabar about Walluvanâd Taluk, and even there rarely. It is now repudiated. It is considered a disgrace for a woman to have more than one *Sambandhakâran*,

24. I do not know.

25. Legally speaking she can terminate *Sambandham*. But practically she seldom does so without the consent of her Karnavans. In this respect a woman is accorded greater liberty in South Malabar. I never heard of a Nâyar woman of North Malabar dismissing her husband, but in South Malabar, I have heard of women coolly dismissing their *Sambandhakaran* and forming alliances with other and more eligible *Sambandhakaran*.

26. I am not aware of any formality necessary for dissolution of connection amongst the Nayars of South Malabar. Amongst *Marumakkatayam* Tiyan the custom is for the husband to send a message of divorce by the *Nadukâran* (middleman) who negotiated the *Sambandham*. It is called *Nyâyam koduka* (giving her rights). A Tiyan woman is seldom allowed the liberty of putting an end to *Sambandham* without the consent of her Karanavan.

27. Yes.

28. None whatever.

29. In her husband's house in North Malabar, and mostly in her own house in South Malabar.

30. No.

31. Yes.

32. Changing *Sambandham* is the exception. Living together as man and wife till death is the rule, certainly in North Malabar.

33. He does. The Tarawad's liability to provide maintenance to the wife and children of a North Malabar Nayar living with him in the Tarawad house, has been recognised by a judicial decision.

34. (a) None except maintenance

(b) They do.

(c) Yes.

35. I know many who do work for their Tarawad, and others who try to earn something for themselves. I think the general practice is for Anandaravans to earn something for himself. A Karanavan more often employs *Kāriastans* (agents) to manage family property.

36. Very few Anandaravans hand over their earnings to their Karanavan, and many support their wife and children with them.

37. *Puthrāvākāsam* is a meaningless word, and no son of a Marumakkatāyam man has any right (*avakāsam*) to his property that is not given to him in his lifetime or bequeathed by will. Property given by father is generally called *Puthrāvākāsam* property. The moral duty of providing for one's offspring is better understood and practised in North Malabar. Hence the coinage of this word there. This practice is coming into vogue in South Malabar.

38. In my opinion there is no valid objection to providing a permissive Marriage Law for Nayars. Its tendency will no doubt be to destroy Tarawad system by diverting self-acquisition of individual members from its grasp, but the happiness of the greatest number of Malayalis is not, in my opinion, bound up with the maintenance of Tarawad system.

39. I would retain the customary form of marriage amongst Nayars, and make registration compulsory if legal sanction is to be accorded to it. I see no sufficient ground for substituting the form subjoined to the question. I shall dispense with the presence of Marriage Registrar. I would suggest that a declaration of marriage, in an approved form, be signed by the bridegroom and bride, and countersigned by the guardian of the bride if she is below 18 years of age, and be attested by two or more witnesses. Let the declaration be filed in the Registrar's office in the same manner as declaration of naturalization is filed in appointed offices in the United States of America. If the Registrar is a fellow-casteman and invited to the marriage ceremony, he may then and there attest the declaration if asked to do so. I would certainly object to a civil marriage being solemnised before a Registrar of assurance in his office, seeing that he may be of any caste or creed.

40. The conditions of valid marriage mentioned in the question do differ from the *Sambandham* recognised in practice. In the first point, under the custom now prevailing, a man may have any number of *Sambandham* wives. Can a man having a wife of that status be competent to marry another woman in legal form would be a question? I would never permit him. But *Sambandham* is a very elastic word. Every fugitive connection is not a *Sambandham*. When a man has a recognised *Sambandham* wife he shall marry her, and nobody else, unless he has put her away for sufficient reasons. This I conceive would be one of the difficulties of the scheme.

No. 2. The age question presents this anomaly. The Bill enacts 14 as the age of marriage and therefore of consent, whereas the Imperial Legislature has drawn it at 12 years. However it will work no hardship in Malabar. Amongst the higher classes, infant marriage is almost unknown.

The other conditions do not conflict with Sambandham conditions.

41. I consider a provision for divorce an indispensable part of the proposed law. I would certainly hesitate to invest courts with matrimonial jurisdiction over persons solemnising marriage under it. It may be delegated to a caste Panchayat composed of persons chosen by each party. According to the principles of English law of divorce, adultery on the part of wife ought to be a sufficient ground for a decree *nisi* if the suit is by the husband; adultery and cruelty, or hopeless disease ought to be the ground for dissolution of marriage if the suit is by the wife. In this connection I must say that I would tolerate no Mrs. Jackson of Clitheroe abduction case notoriety, amongst Malayali ladies. I would give a *decree nisi* against a woman who persistently refused to submit to marital rights of her husband. I would also make change of religion a ground for divorce.

42. Adultery on the part of wife is the chief ground, neglect and cruelty in the part of husband are also grounds.

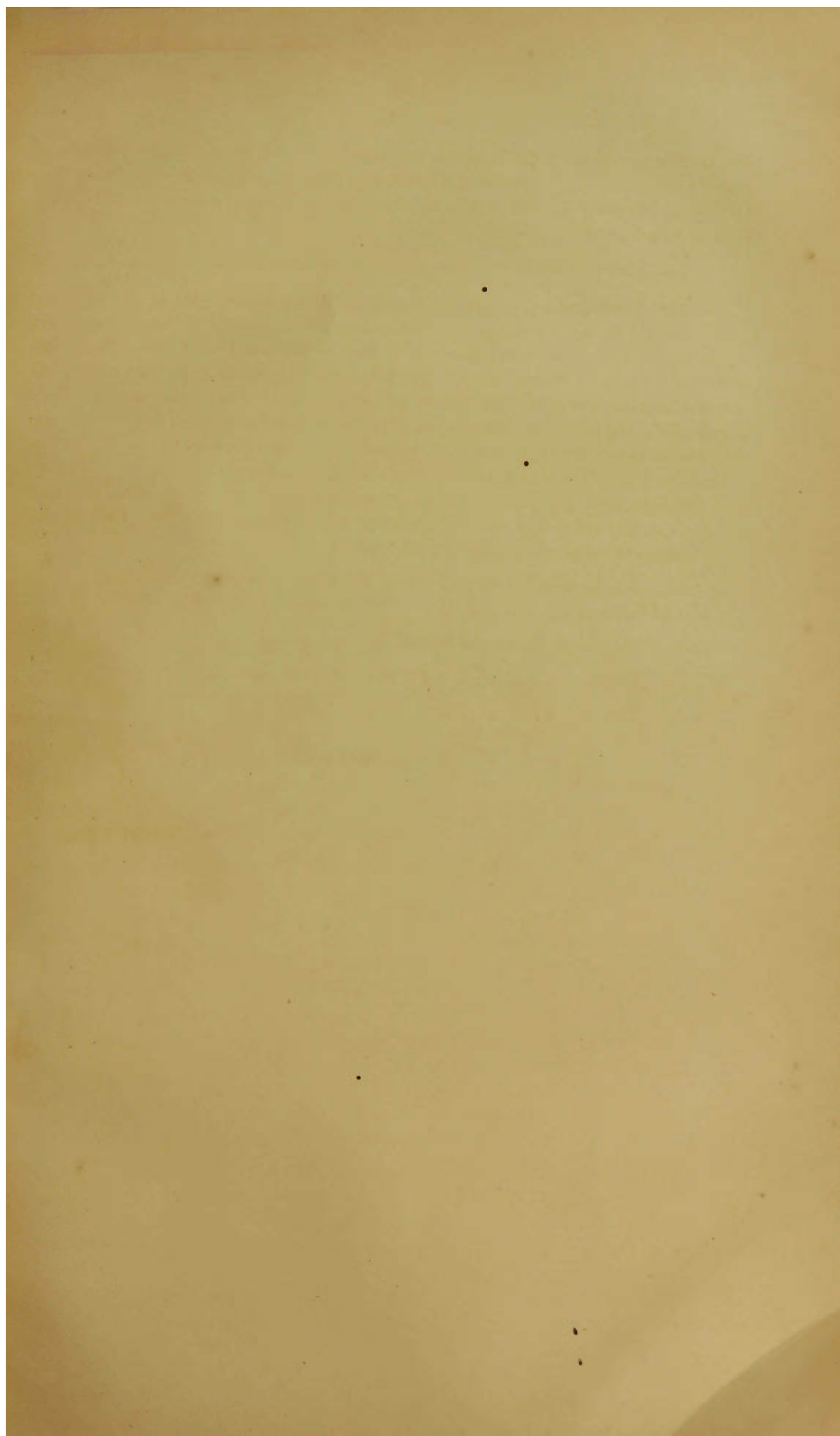
43. They ought to be maintained by the husband.

44. I have no objection to make to these provisions.

45. Yes.

CALICUT,
8th May, 1891.

E. K. KRISHNAN,
Sub-Judge.



CALICUT:

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

Answers to Interrogatories

BY

M.R.Ry. C. GOPALAN NAIR AVARGAL,

Sub-Judge, North Malabar,

TELLICHERRY.



Answers.

1. Yes; he can.

2. No.

3. The general rule is that no Nair can have Sambandham with a woman whom he cannot touch without pollution, nor a man of a lower division with a woman of a higher division. No Nair—man or woman—of the *Chârnatha* (ചാർനത) caste can form Sambandham with a woman or man of the *Sudra* or any other recognised division of caste. A *Sudra* Nair cannot also have Sambandham with a *Chârnatha* woman. Even among the several recognised divisions of castes there is any number of subdivisions, and these do not always inter-marry.

4. It does. The man or woman of the higher division, who forms such connection with one of a lower division, forfeits his or her caste.

5. Not that I am aware of.

6. The proper recognised boundary is *Thorashêri puzha* (river) dividing the old dominions of the Zamorin from those of the *Kolathiri* or *Chirakkal Rajah*. *Korapuzha* is now spoken of as such boundary line, but it's correctness may be doubted; and, so far as I can understand, the old Kurumbranâd Taluk, lying between *Thorshêri puzha* and *Korapuzha* is a part of South Malabar. This view will receive confirmation from the fact that the old Pynad Munsiffce, which covered the old Kurumbranâd Taluk, was till some time back a part of the Zillah of Calicut.

7. Nairs of North Malabar do form Sambandham with those of South Malabar, but the reverse is not often the case, though instances may be quoted.

8. The Nairs of North Malabar do not, as a rule, allow women of their district, to have Sambandham with men of South Malabar. It is difficult to give the reason unless we are to suppose that the Rajah of Kolathiri, who was the king of the best part of North Malabar, was jealous of any connections between women of his country and the subjects of the Zamorin.

9. The Nair women on the North of *Thorashêri* river do not as a rule, cross to it's South, and recently people of the old Kurumbranâd Taluk have also made a rule not to cross to the North of *Thorashêri* or to the South of *Korapuzha*; but I do not think that the Kurumbranâd rule is so stringent or absolute.

10. The prohibition is, I believe, due to the difference of allegiance between the subjects of Kolathiri and the Zamorin, and the consequent difficulty of travel and protection of the people of the one country in the other. Somewhat similar prohibition had also, I am told, existed, for the same reason, in the several states of Germany which were subject to different Governments.

11. *Tâli Kettu Kalyânam* is a mimicry of the *Mangalia Sutra*, or the *Tâli* tying ceremony of the Tamilians, and the Telugus, probably introduced to assuage the feelings of the Malabar ladies for the absence of a regular marriage. A farce of most of the ceremonies among the Tamilians and the Telugus, on such occasions, is also gone through in *Tâli Kettu Kalyanam*.

12. In the case of the females of the Rajahs, the *Koyi Pandârams*, or the Rajahs of Beypore, or Cranganore, tie the Tâli, and also the Nambudiris in the case of the Kivilagam of Cochin, and of the *manas* (Nambudiri families) in the Payanur Grâmam. In the case of some aristocratic families, *Thirumalpâds* discharge the same office. Nedunngâdis tie the Tâli for the Chârnatha (ചാൺത) people. In the case of all others, a man of the same Enangan (എണങ്ങൻ) or Kiriyañhil (കിരിയത്തിൽ) caste, does the same. The person so tying the Tâli, is called *Manâlan* (മണാളൻ) or *Manâlapilla* (മണാളപിള്ള).

13. Yes; in some cases it is so.

14. Certainly not, except perhaps in the cases of *Koyi Pandârams*, who tie the Tâli to the Ranis of the royal family of Travancore, and the Numbudiris who do the same to the Ranis of Cochin, and the ladies of the *manas* of the Payanor Grâmam.

The reason for the man tying the Tâli not thereby obtaining a right to cohabit with the girl is evidently the fact of the marriage being not in itself a binding ceremony.

15. Certainly not; while, on the other hand, if such connection can be effected it is considered the most becoming.

16. I have.

17. When the person, who ties the Tâli, is a Nair, or Enangan എണങ്ങൻ, there is the same pollution as if the Sambandhakâran of the girl were dead.

18. When the people are poor, the Tâli, I am told, is sometimes tied by the mother, or the Embrandiri of the temple before which the ceremony is performed.

19. As the Tâli Kettu Kalyanam is the mimicry of the proper Hindu marriage, it follows, as a matter of course, that every Marumakkatâyam girl must undergo that ceremony before reaching the age of puberty, lest she lose her caste.

I can however see nothing but the custom in justification of this.

20. Yes. After Tâli Kettu Kalyanam, before a girl can consort with a man, there must be between them the ceremony called Pudamuri, or Kidakkora.

21. The same formalities are not always observed, though an attempt is made at times.

22. In North Malabar the ceremony of Sambandham is called *Pudamuri*, and the husband gives clothes to the woman on the night of the wedding in the presence of a large assembly. In South Malabar the ceremony is called *Kidakkora*, or *Kidak-korakalyânam* and, instead of clothes as in North Malabar, the husband gives betel leaves and nuts to the girl. The *Kidakkorakalyânam* in the Palghaut Taluk is celebrated with nearly as much pomp and show as the Pudamuri in North Malabar, but I do not think that the other Taluks of South Malabar are equally particular.

23. Not now at all events; nor did such a practice ever exist in any respectable family. I have however heard cases some years back, but they rather prove the exception than the rule. The practice was always looked upon with abhorrence.

24. I do not think it is prohibited in so many words, nor can I quote any

authority for such prohibition, as there is no written law on such usages.

25. She can.

26. No sort of formality is now observed in dissolving the connection, unless it be the giving of notice to the members of the girl's family. Till a few years ago, a custom had prevailed in the Palghat Taluk, of the husband giving the girl a couple of gold fanams, when notice of dissolution was given; but I am not sure whether there was a similar rule in the other Taluks of Malabar.

27. Yes, just as a Tamil or Telugu Brahmin can have more than one wife at a time.

28. Though no respectable man would care to have more than one Sambandham at a time, there is nothing to prevent him from having more than one, if he so chooses.

29. In South Malabar, except perhaps in the Palghat Taluk, the woman usually sleeps and takes her meals in her own house, except when she is on a visit, or *virunnu*, to her husband's.

30. In North Malabar she usually lives in her husband's (or Sambandhakkaran's) house.

31. According to recognised custom, a man is not bound to support the woman and her children during Sambandham when they live, not under his immediate protection, but in their own house or Tarawad; but he is bound to do so whenever they live in his house or under his immediate protection. There has been a Judicial decision to this effect in the case of a well-known family in North Malabar.

32. The rule certainly is not to change Sambandham frequently, but for one man and one woman to cleave together for life. Several instances to the contrary may however be quoted.

33. He does.

34. Yes; if Anandiravar work for the Tarawad, the Karanavan, in addition to feeding and clothing him, also finds enough for the clothes and oil for his wife and children. He also feeds the Anandiravan's wife and children when living in the Tarawad.

Yes.

Yes.

35. Till very recently they generally worked for the Tarawad, but a tendency in the other direction may now be traced.

36. There is no invariable rule. It depends upon individual pleasure and benefit, though the tendency now is for each man to keep his own earnings with himself, so that he may pass them over to his near blood-relations of the Tarawad or to his wife and children, as he likes.

37. Yes. Putrâvakâsam gifts are well-known among Nairs and Marumakkatâyam Tiyars in North Malabar. Such gifts are made by a man to his wife and children, and the property so gifted descends to their descendants in the family to the exclusion of its other members.

Though not to such an extent, except perhaps in the Palghat Taluk, such gifts are made in the whole of South Malabar also.

38. I can see no objection to providing a permissive Marriage Law for Nairs, provided that *it does not infringe the present rules of the caste, or interfere with the Marumakkathâyam law of inheritance.*

39. I would prefer to retain the customary form and have the marriage registered before a Registrar, or a Village Munsiff or three witnesses, the declaration being sent to the Registrar, without any unreasonable delay, when the marriage itself is not solemnized before that officer.

40. I should think they do. In the 1st place a man, having one woman, does now take in a second. Even a woman of 21 years or more does not, as a rule now contract a marriage without the consent of her Karanavan or Guardian. As the 1st and 2nd provisos are now worded, there is nothing to prevent a Marumakkatâyam Brahmin, or any high caste Nair from contracting a legal marriage with a barber, washer-woman, or Tiyyar woman, whom he cannot either approach or touch without pollution, nor the members of one Tarawad from marrying a descendant of his great-great-grandmother, though they still continue to be members of the same Tarawad and offer *Bali* and *Pinnams* at the same *Tara*.

41. In condition No. 1, I would take away the words "a wife or," leaving the law as it now obtains among the Brahmins and Mussalmans. In clause 2, I would reduce the age of the woman to twelve, as they are usually now married and obtain puberty by that time. To proviso 1, I would add, after the words "marrying," the words "if they belong to the same class or division of the caste or if Sambandham between them would not be forbidden by the custom hitherto in force." To the 2nd proviso, I would add the words, "unless they be members of the same Tarawad, or unless Sambandham between them would not be permitted by the custom hitherto in force."

42. Adultery, gross disobedience to the husband's orders, or incurable or loathsome disease.

43. See answers to questions 31 and 33.

44. I have no objections to the clauses (a) and (b), the 1st part of (e) and the whole of (f). But in (c), I doubt whether the guardianship should not at once go to the Tarawad after the husband's or father's death—a woman being never fit for independence under the general Hindu Law. I would certainly object to clause (d) as it would be virtually interfering with the Marumakkattâyam law of inheritance, which the majority of the people do not, as yet, want to be set aside. As I learn from the Hon'ble Mr. C. Sankaran Nair's speech before the Council when introducing the bill, his object is to have a Law to provide, for such of the Marumakkatâyam Hindus as wish it, a form of marriage which the Law will recognise; and, so far, I am with him. But I do not see, why, with a view of merely obtaining this object, we should startle the people of Malabar with innovations in their Property Law, which the majority do not, as yet, want and which the exigencies of the case do not necessarily demand. In my opinion, it will be sufficient if we confine the legal incidents of any marriage under the Act to

i. the transfer of the guardianship from the Karanavan to the husband or father,

ii. the liability of the husband, or father, to maintain his wife and children,

iii. an absolute right on the part of the person to will away his private property to his wife and children, or to whomsoever he likes.

As I have already shown, and as some of the recent decisions of the High Court would show, these are no new rights or usages now being introduced into the Malabar Law. Will has been known for years, and it has been very common for a dying Karanavan to declare, on his death-bed, to his Senior Anandiravan and the other members of his Tarawad, that such and such things, or so many rupees should be given to his wife and children, or to any of his favourite servants. The obligation of the husband or father to maintain his wife and children, when living with him, has also been long known and recognised; and in North Malabar and also in several parts of South Malabar, the Karanavan even now virtually transfers to the husband, or father, the guardianship of the wife and children, when he sends them to live in his (husband's) house. These three rights, if recognised as arising under a marriage solemnised under the proposed Act, will therefore be no new rights created under the Act, and, in my opinion, in making an optional Marriage Law of this sort, it would not be a wise policy to startle the people with any interference with their Property Law, unless it is clearly shown that the majority of them are in favour of such change.

As to clause (*d*), it may further be pointed out, that it is only proposed to provide, for such of the Marumakkatâyam Hindus as wish it, a form of marriage which the Law will recognise, and it would therefore follow, that one or more members of an undivided Marumakkatâyam Tarawad might marry under this Act and the others not. Under the clause (*d*) the separate or self-acquired property of any member so marrying, will descend to the surviving husband, or wife, and children born of such marriage, while the property of the other members, who do not so marry, will lapse to the Tarawad, and will, under the right of survivorship be liable to be enjoyed by the first-named member who marries under this Act, and whose property will go to his own children and not to the Tarawad. So far as I know, no case has been made out why such an unfair and invidious distinction should be made in favour of one member of a Tarawad, who takes the benefit of the Act, to the prejudice of the others who do not. I would therefore altogether drop the clause (*d*), and also the 2nd part of clause (*e*), as it goes further than the English Law, and because the recent decision in the Jackson case in England might well show, that there might be very good reasons for a husband even to refuse a bare subsistence to his widow.

By these remarks, I do not wish it to be understood that I am by any means in favour of the Marumakkatâyam Law of inheritance; and, if my private opinion be consulted, I would certainly say that it should never have existed at all. But seeing that it has existed so long, and cannot be interfered with, without causing a great revolution, it would be highly impolitic to make any change in that law, till it is wished by the majority of its followers, which I do not think is still the case. To make an innovation of the character suggested in clause (*d*), would be to introduce the thin end of the wedge to cut away the whole system of that law, which the people do not, as yet, wish the Government to do. If the Government would interfere in the matter of Property-Law, the sooner the whole Marumakkatâyam law is done away with and the Hindu, or any other rational or natural law, introduced into the country, the better. But so long as they would not interfere in a matter of that character in the absence

of an application from the people, a piece-meal law of the sort suggested in clause (d) would only add to the confusion and disunion already existing in Malabar families. In my opinion, a law, legalising the marriage performed under this Act, with the rights of maintenance to the wife and children so marrying, and giving the right to dispose of one's private estate by will, will amply satisfy the present wants of the country, and in this there can be no grave complaint from the novelty of the thing. The practice among the Mâpillas of North Malabar, who follow the Marumakkatâyam Law of inheritance, but still contract their marriages according to the rites of the Koran, would illustrate this view.

45. Yes, it is customary. In my opinion, a change in the Marriage Law of British Malabar, not assented to by the Rajahs of Cochin and Travancore, might prove troublesome to the people.

(Signed.) C. GOPALAN NAIR,
Sub-Judge, North Malabar.



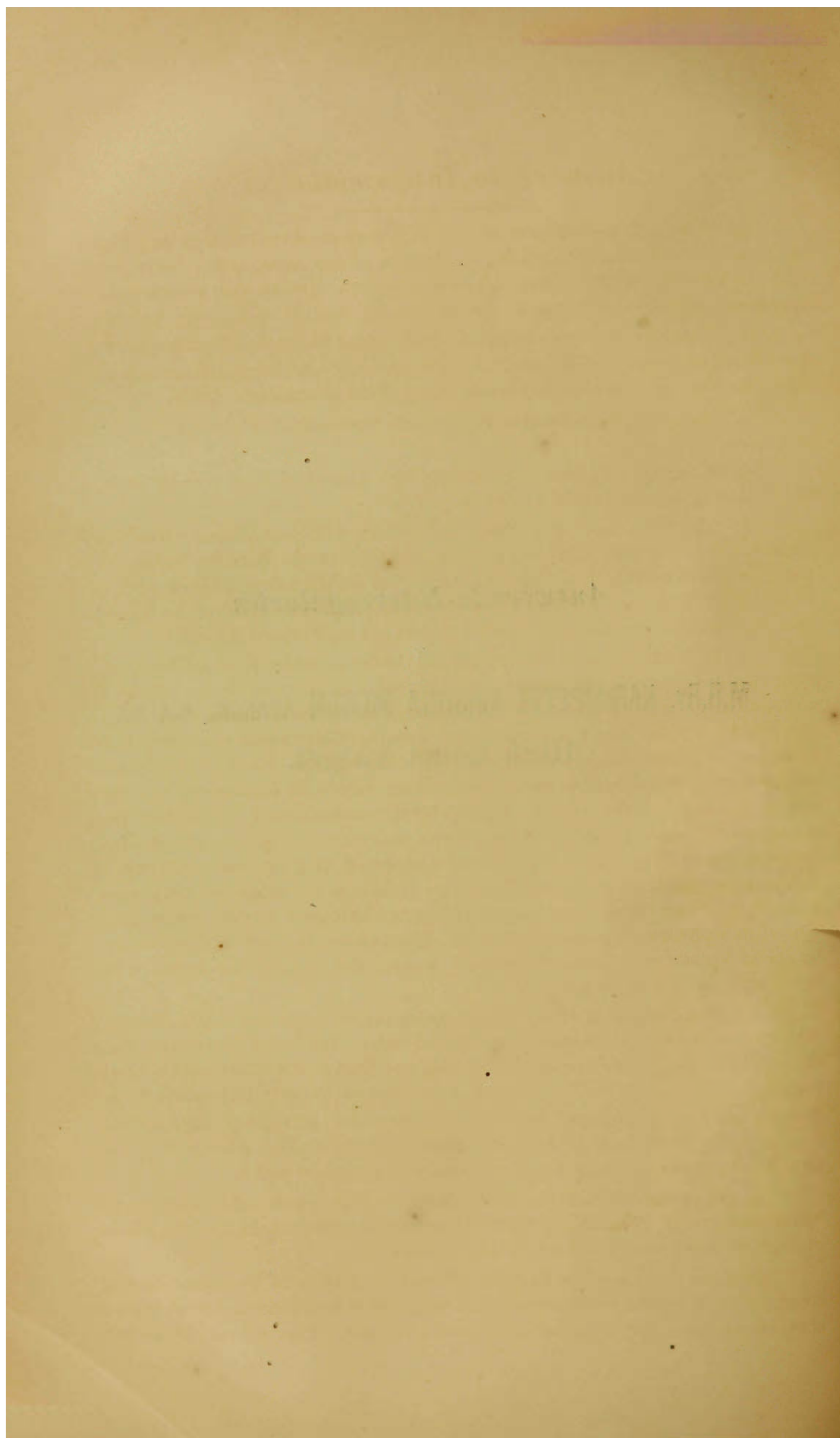
CALICUT:

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

Answers to Interrogatories

BY

M.R.Ry. KARIMPETTE KRISHNA MENON AVARGAL, B.A. B.L.,
High Court Vakeel.



Answers to Interrogatories

Questions 1, 2, 3.—The general rule is that males of the same, or any higher caste, may form Sambandham with the females of the same, or any lower caste. This rule answers the 2nd question in the negative: But as this general rule is subject to numerous exceptions, it requires some explanation:—

1. There are 8 classes of Malabar Brahmans of whom the Elayathu (ഇലയതു) caste forms the lowest sub-division. An Elayathu may form Sambandham only with Nayar females, but not with the females of any of the intermediate classes.

2. Patters (foreign Brahmans) may form Sambandham in any but the Brahman caste.

3. Kshatrias may form Sambandham with Kshatria females as well as with the females of any other caste lower to it.

4. The Sâmanthas may form Sambandham with Sâmantha as well as Nayar females. But notwithstanding this rule the members of the Zamorin Maharajah's family, which is admittedly a Sâmantha family, are not allowed to consort with the women of the Kiriya and Sudra Nayar castes, although there have of late been at least two instances in which this peculiar custom has been broken through.

5. Of the Ambalavâsi (temple-servant) castes a Pishârodi, or a Vâriar, may form Sambandham with the females of his own caste, as well as with any Nayar females, although in some parts of North Malabar these castes are denied this privilege. The Pishârodi caste being considered higher than the Vâriar caste, the males of the former are allowed to consort with the families of the latter caste. The other classes of Ambalavâsis are allowed to form Sambandham only with females of their own respective castes. I may here observe, however that according to Kêrala Mahâtmyam, a work considered by the Nambudiris to be an authority in these matters in Malabar, a Mûssathu (മുസ്സതു), the highest class Ambalavâsi, may only marry a female of his caste but may not cohabit with her. This right is mentioned in the work above referred to, to have been taken away from him, and assigned to the Brahmans by Parasu Rama by way of punishment for an offence alleged to have been committed by one of his castemen during the reign of Rama. But this theory is denied by immemorial practice to the contrary.

6. Of the Nâyars the Kiriya caste being the highest, a man of that caste may form Sambandham with a woman of any Nayar caste. The Sudra Nayar caste being the next lower one, a male member of that caste may form Sambandham with a female of any Nayar caste except the Kiriya. But the Chârnathu (ചാർനതു) caste in South Malabar and the Sudra Nayar caste deny to each other the right of intermarriage. The male members of the Chârnathu, and all the divisions of Nâyars lower to it, may form Sambandham only with females of their own respective castes.

7. The washerman and the barber castes form the lowest sub-divisions of the Nayar community. No man of a higher caste may form Sambandham with a woman of either of these castes without social degradation.

Questions 4 and 5.—The Vaidikas (Nambûdiri doctors of law) maintain that according to the Sastras no Nayar lady shall be subject to social degradation on account of her Sambandham with a man of any other Nayar caste. They say that all the sub-

divisions of the Nâyara community are of the same caste, and that there is therefore no Sastraic distinction between them in regard to their social position. It is evident therefore that there cannot be any Prâyaschittam provided for by the Sastras for such a union. An innocent act can have no Prâyaschittam. But notwithstanding this theory such a union is regarded by the society as disgraceful and in practice entails social degradation, its rigor being proportionate to the difference in social position of the respective castes of the parties.

Question 6.—The river Kôrapuzha is the recognised boundary between North and South Malabar for caste purposes. But the inhabitants of the regions adjacent to the river on both sides do intermarry, and in every respect treat each other as castemen.

Question 7.—The North Malabar Nâyars of higher ranks are treated in the South as of Kiriya castes and are therefore allowed to form Sambandham with Nayar ladies of all castes in South Malabar. But the other divisions of the Nâyars of North Malabar are denied the privilege even with respect to their own castes in the South.

Question 8.—The Nâyars of South Malabar, whether of the Kiriya or any other caste (subject to the custom mentioned in my answer to question 6), are not allowed to form Sambandham in the corresponding families in the North. But among some of the lower sub-divisions of the Nâyars both in the North and in the South this custom is not always very rigidly adhered to. This custom, I believe must have originated,

(1) from the utter ignorance of the people in ancient days as to the social positions of the people in any distant district,

(2) from the national hostilities which existed between the peoples of different and neighbouring principalities consequent upon the constant fight between their respective chieftains, and

(3) from the contempt engendered by the comparatively low morality of the people in the South in matters of sexual relations.

Questions 9 and 10.—The reasons mentioned in the above para must also, I believe, account for the absurd prohibition referred to in question 9. There is no valid reason now for the observance of the custom. There have of late been several breaches of the absurd prohibition. There were also similar prohibitions regarding the Châlliam and the Kallai rivers which have long since become obsolete. A similar prohibition regarding the Putiyapâlam river is still respected by the ladies of the orthodox Nayar families of Kizhakkumpuram and Vadakkumpuram. All these restrictions must have originated from various social and political reasons, and their observance even at the present day is simply an instance of the survival of effects after the cessation of their causes.

Questions 11 and 18.—The Tâli-kettu Kalyânam is the ceremony of tying the Tâli (neck-ornament) on a girl. Among all the Marumakkathâyam classes down to the Nâyars it is performed with all the pomp and details of an actual marriage ceremony without its reality. But seeing that among the Nambûdiris it is the father who ties the Tâli on the girl about to be married, that they have no manthram to repeat as they do it, and that their real marriage ceremony consists in Pânigrahanam (receiving of the hand), I am strongly inclined to doubt whether the Tâli-kettu Kalyânam among the Nâyars, which must have been copied from that of the Nambudiris as is evidenced by their close resemblance to each other in almost every detail, really imports anything like marriage.

Question 12.—In support of this view I may also state that it is only among a very small portion of the Malayalis that each girl has a separate man to tie the Tâli on her. Throughout the whole of North Malabar among the Nayars the Tâli is tied by a lowcaste Nambudiri, or an Emprân (Canarese Brahman). Among the Sâmanthars, Nâduvâzhi Nayars, and Atiyôtis in all Malabar it is a Kshatriya who performs the act. Among the Chârnatu caste it is a Sâmantha and among all the Nayar castes in Cochin who have no Enangars (classmen) it is again a Kshatriya, who performs the act.

Question 13.—Nor is it necessary in these cases that each girl should have a separate individual to tie the Tâli on her. A single individual, moreover, may tie the Tâli on any number of sisters and cousins on one and the same occasion, or on persons standing in the relation of grandmothers, mothers, daughters, and grand daughters to each other, provided he could live to be present at the successive Tâli-kettu ceremonies of all these women.

Question 18.—Among some classes even the very mother of the girls ties the Tâli on her. These facts very strongly suggest that the Tâli-kettu Kalyânam hardly imports real marriage. But on the other hand there are also facts which tend to support the opposite view. In South Malabar, Cochin, and Travancore, the Enangu or clan system prevails to a more or less extent, and in these parts of Kêrala where a girl has her own Enangars, or classmen, the right (or duty) of tying the Tâli on her is assigned to one of her Enangars. For three days and nights after the tying of the Tâli both the girl and the Enangan, who tied the Tâli on her, are made to sit and sleep together in the same room—except in the cases of grown-up girls who are generally taken away from their male companions during nights. The Enangan who tied the Tâli on a girl is called her Manavâlan (മാണവളൻ=husband); he is made to cut asunder a piece of cloth in token of his divorce on the 4th day; and even in spite of such a divorce the girl has to observe pollution on the death of her Manavâlan. In various other religious acts also such a woman is treated as a widow. For instance in performing srâdha to her mother or other relations a woman whose Manavâlan is dead cannot offer a Pinda, but must sprinkle the rice on the grass. Again when a Nambudiri bride is brought to her husband's house i.e. on the occasion of the Grahapravêsanam (ഗ്രഹപ്രവേശനം) ceremony some Sudra woman are sent to meet her. No woman whose Manavâlan is dead will be sent to meet the bride on such occasions. For the Brahmans regard them as widows.

Question 14.—It is also the general impression that if a Manavâlan did not sever the cloth in the presence of the girl and her relations he shall remain as her husband in reality also. He is therefore invariably requested to do so.

Question 15.—Even after this he may form Sambandham with her by performing Putavamuri ceremony. The Manavâlan of one of the nieces of Mr. K. R. Krishna Menon, the late Sub-Judge of Tanjore, has thus formed Sambandham with her subsequent to the cutting asunder of the cloth on the 4th day of her Tâli-kettu Kalyanam.

Question 16. The whole of the above para has reference only to those Nayars in South Malabar who have Enangars—viz., Kiriya, Sudra, Pallichân, Vattakkâdan, Attikurissi &c.

Question 17.—It is also amongst these classes that the mother sometimes ties the Tâli on the daughter where a Manavâlan, whose horoscope agrees with that of the girl, cannot be had.

Question 19.—Tāli-kettu Kalyānam before the age of puberty is almost invariably the rule. Custom can alone be pleaded in justification of it. This restriction does not obtain among the Nambūdiris.

Question 20.—Putavamuri ceremony is necessary. The Kāranavan of the man in consultation with the Kāranavan of the girl and their friends and relations fixes an auspicious day for the performance of the ceremony. The bride-groom with his friends goes to the bride's house on the appointed night and gives her a few pieces of cloth in the presence of their friends and relations. These are the essentials of the ceremony although there may be considerable local differences in matters of detail. If the girl be of the same caste with the man his sisters go to her house and bring her to their Tarawād house.

Question 21.—None of these formalities are, as a rule, observed where the Sambanthakkāran is a Patter or a Nambūdiri.

Question 22.—As I have observed in my answer to the 20th question the essentials of the ceremony are the same in the North and the South, although there may be considerable local differences in matters of detail.

Question 23.—According to the present public opinion she may not have more than one husband at a time. But in some parts of Nedunganad and in the Northern parts of the Cochin State, it has been the custom for a woman to have more than one husband or Sambanthakkāran at a time. Polyandry of the Thoda type still prevails among the artizan classes and Tiyars in various parts of South Malabar, Cochin and Travancore, and also, I am told, among some of the Nayars in Travancore. Kêrala Mahâtmyam also says that in South Kêrala a woman may have 3 or 4 lovers at a time (vide sloka 26 ch: 49) but that in the middle country one woman may have only one lover at a time (vide sloka 5 ch: 50). The text and its English translation of both these chapters are given as an appendix. Although the practice of one woman having 3 or 4 lovers at a time has now become almost extinct among Nayars in South Malabar, and is fast dying out in other places and among other castes as well, yet its recent existence taken along with the allusion to it in Kêrala Mahâtmyam leads to the supposition either that at the time of the composition of Kêrala Mahâtmyam polyandry was very prevalent in South Kêralam, or that in order to support the Brahmans with puranic authority in their endeavours to force this custom on the Sudra section of the people of South Kêralam they invented this ridiculously absurd story of celestial houries (vide Appendix) and succeeded in the attempt. Be this as it may, according to the intelligent public opinion that now prevails polyandrous customs are strictly prohibited in South Malabar as well as Cochin and Travancore. In North Malabar the custom seems to have existed in no known time as is evidenced by Kêrala Mahâtmyam.

Question 25.—She may, according to the custom that now prevails.

Question 26.—There is hardly any sort of formality for dissolution of marriage worth the name.

Question 27.—Yes.

Question 28.—No.

Questions 29 and 30.—In North Malabar she mostly lives in her husband's house. In South Malabar it was formerly considered a disgrace to send a woman with her husband to his house. It was regarded in the light of a sale of her. But the present generation is now rapidly adopting the northern custom of wives living with their husbands in the latter's house.

Question 31.—According to the recognised custom the husband has to give his wife and children clothes and oil wherever they reside. As for their food they are to have it out of their own Tarawad so long as they reside in their Tarawad house, and out of her husband's Tarawad so long as they reside in his Tarawad house. In North Malabar as the wife always resides in her husband's house it has come to be considered that her food also is a quasi charge on his Tarawad. This is certainly a mistaken notion. There is really no difference in this respect between the North and the South.

Question 32.—If either party is determined to cease all connection with the other, there is no custom or law to prevent it.

Question 33.—Please see my answer to question 31.

Question 34.—There is no customary allowance made in such cases. But in justice to such an Anandaravan the Karanavan would make a more liberal provision for his necessaries than usual. For it is only by conciliatory means that Karanavans can make an Anantharavan willing to work for the Tarawad.

The Anandaravers are often allowed to cultivate Tarawad lands for a rent and are permitted to deal with the surplus, if any, at their pleasure.

Question 35.—Wherever it is possible for the Anandaravers to earn anything they keep it for themselves.

Question 36.—With their earnings they support their wife and children and also their mother, sisters, and their children. They make provisions for all these relations according to circumstances, and whatever remains with them after all this, lapses to the Tarawad on their death. The proportion of their earnings that go for the benefit of their wife and children is now gradually increasing to the detriment of their Tarawads.

Question 37.—‘Putrâvakâsam’ as used by the people of North Malabar simply means the gift made to one's children as such, free from any claim to it on the part of those children's Tarawad. As similar gifts are generally made in South Malabar also, I do not think there is any distinction in this respect between the North and the South.

Question 38.—I do not see any objection to it. On the contrary a legally binding form of marriage is absolutely necessary in any society for the maintenance of a high degree of sexual morality.

Question 39.—I would prefer the former.

Question 40. (1) At present a man may have Sambantham with more than one woman.

(2) There is at present no restriction as to marriageable age.

(3) Consent of the Tarawads of both the parties is necessary now, quite irrespective of their age, in order that those Tarawads may recognize the union.

(2nd Proviso).—This proviso totally ignores the present custom as to consanguinity. It may be very shocking to the people and ought therefore to be taken away for the present at all events.

Question 41.—Nil.

- Question 42. (1) Adultery of the wife,
 (2) Abandonment by the husband for a reasonably sufficient period,
 (3) Unaccountable absence of either party from the other for a reasonably sufficient time,
 (4) Husband's forming a second Sambandham,
 (5) Loss of caste by either party,
 (6) Incompatibility of temperament and consequent mutual disgust, are now regarded to be reasonable grounds for a dissolution of Sambandham.

Question 43.—Please see my answer to question 31.

Question 44.—In clause (d) the Tarawad of the intestate is made only a contingent heir to his property. But in justice to his Tarawad, which had to maintain and educate him in his early days, and particularly to his mother and sisters and other near relations, I think this clause ought to be so altered as to entitle the intestate's Tarawad to a share of his property equal to the shares of his wife and children put together. The same remarks are applicable to the case of a woman dying intestate.

Question 45.—As a general rule men from the North are allowed to form Sambandham with the women in the South. Caste, as an obstacle to the formation of Sambandhams, exists only in British Malabar and the North of the Cochin State. In South Cochin and Travancore Sambandhams are permitted without any regard to the respective castes of the parties, provided both of them are Nâyars. Hence Travancorians and Southern Cochinites are not generally allowed to form Sambandham in the Northern division of the Cochin State and in British Malabar. The above remarks apply to the higher classes of Nâyars in these parts of Malabar.

APPENDIX.

A Translation of Chapters 49 and 50 of The Kêrala Mahâtmyam.

1. Subsequently the resplendent Rama came to Srimûlastânam (Trichur) and thus addressed the Brahmans of the four and sixty villages.

2. "O best of Brahmans! I shall go to the Indra's world and come back." Taking leave of all the Brahmans he went towards Indra's world.

3. Seeing the approach of Bhargava (Rama) Indra speedily rose up and taking the "Arghya pâtram" (the vessel for taking water for washing the face) performed 'Pooja' to him (Bhargava).

4. Placing him on a magnificent seat Indra accosted him in a low and respectful tone: "O Son of Bhrigu! endowed with divine knowledge! tell me the cause of your coming:

5. Tell me O princely sage! what is it that you wish to have." Being thus accosted Bhargava said:—

6-7. "Hear O Lord of the gods! I shall tell you what brought me here. O beloved of gods! give me celestial houries for the sexual intercourse of the Brahmans who have settled in my land, and who are devoted to the exercise of religious austerities."

7-8.—Upon this Indra gave him three young, charmingly handsome, moon-faced maidens skilled in the art of copulation.

9. One of these was the beautiful daughter of Jayantha (Indra's son) called Subhaga. She was given to Bhargava with six maids.

10. Then was given to Bhargava a beautiful lady who was the daughter of a Gandharva with six maids.

11. And then a woman of the Rākshasa tribe also with six maids. Bhargava was much pleased with the lord of the heavens when

12. he received these three charming maidens with eighteen maids. Indrani (wife of Indra) gave him fruits of the

13. Indra-plantain (നീരൂപാഴ) and also their sprouts; a strange sort of Ur-varuka (cucumber) and the pepper seeds.

14. Then taking all this Rama started on his journey (back), when the celestial women addressed the son of Bhrigu thus:—

15. "Let us have male and female dancers and drummers and then we shall follow you along with them."

16. Thus requested the even-minded Rama informed Indra of it, and the Lord of the gods then gave him all this, viz.,

17. An accomplished dancer, a female dancer, and a drummer of the gandharva tribe with the pot-drum and cymbals.

18. Taking all this Bhargava took leave of the Lord of the gods and returned greatly pleased.

19. The King (Rama) brought all this to his own place.

20. Coming to Vrishadripura (Trichur) he saluted all the Brahmans assembled at the Mandapam of Srimūlasthānam, and thus spoke to the learned Yogachariar (preceptor of the Nambudiris):—

21. I have brought from the celestial regions young and beautiful maidens for the constant sexual intercourse of all the Brahmans. O! Superior Brahmans

22. Such of you as are not householders may constantly have sexual intercourse with these beautiful woman for the sake of your personal enjoyment, as well as for the purpose of procreation."

23. Rama settled the Dêva woman with her six maids in the midst of the town of Vrishabhadri (Trichur) and gave them six houses to carry on their amorous dalliances

24. to the enjoyment of the Brahmans, saying, "May you all O best of Brahmans, with the exception of the eldest sons, constantly have sexual intercourse with

25. Subhaga and her maids so that no wicked Sudra may be born in my land.

26. The Brahmans may have their sexual cravings satisfied as (freely) as the Devas do in heaven, viz. one woman may be enjoyed by three or four persons in common.

27. And the Brahman shall not be amenable to the imputation of adultery; for are not the celestial beauties so enjoyable in heaven?

28. Hence no Brahman shall be guilty of adultery in my land. O! superior Brahmans! let all the Brahmans satisfy their sexual cravings.

29. Let the women lie superincumbent during the time of copulation; and let not the women have any cloth to cover their breast with.

30. And let the celestial women remain in my Kêralam land cohabiting with Brahmans according to their pleasure."

31. Thus the Brahmans began to live happily in the enjoyment of their sweet embraces. Bhargava then established

32. a daily festival in the Siva's pagoda at Trichur where the dancers and the drummers were to take part.

33. Thus ends the 49th chapter of the discourse between Garga and Yudhishtira on the early history of Kerala in the Bhugola Purana.

1. Bhargava planted the sprouts of Indra-plantain (നെന്മുള) and sowed the seeds of pepper and cucumber, and then

2. proceeded (further in his work). Bhargava then settled the woman of the Gandharva tribe with her six maids in the town of Lakshmipuri (Taliparamba) (and proclaimed thus:)

3. "Let all the Brahmans accept (them) daily for their sexual enjoyment. Let the superior Brahmans (also) have sexual intercourse with these beautiful women.

4. Let these women remain for the enjoyment of Sâmanthas (subordinate chiefs), Brahmans, and even Brahmans of other countries. But these

5. women shall conduct themselves as they have been doing in the Gandharva regions—viz:—only one man shall consort at a time with a woman dwelling in the middle country. With the proud (or beautiful)

6. women of the Gandharva tribe let Sâmanthas and Brahmans have intercourse every day; and

7. let all the Brahmans enjoy them as they please, observing the rule of superincumbent embrace".

8. Then Rama settled the woman of the Râkshasa tribe with her six maids, who were in the prime of their youth, in Ambica's town (Moocambi) for the daily enjoyment of the Brahmans (and thus said):—

9. "Remain here for ever for the sexual enjoyment of Brahmans conducting yourself as you were used to do in the Râkshasa regions.

10. You may carry on your amorous dalliances with all the Brahmans except their eldest sons.

11. After the lapse of several years since the above mentioned three lovely ladies and their respective maids established themselves in Kêralam, the women of the Râkshasa tribe grew lusty and began to drink liquors and have intercourse with Brahmans every day.

12. Just then Bhargava observing all this thus cursed the inhabitants of the Northern country.

13. "O! You worst of Brahmans! You have become the source of ruin to my country through your wicked sons, living in your country.

14. I shall undergo an incarnation myself and annihilate the children of your Râkshasa tribe."

15. Thus saying he appointed a second subordinate chief to rule over them, and proceeded to

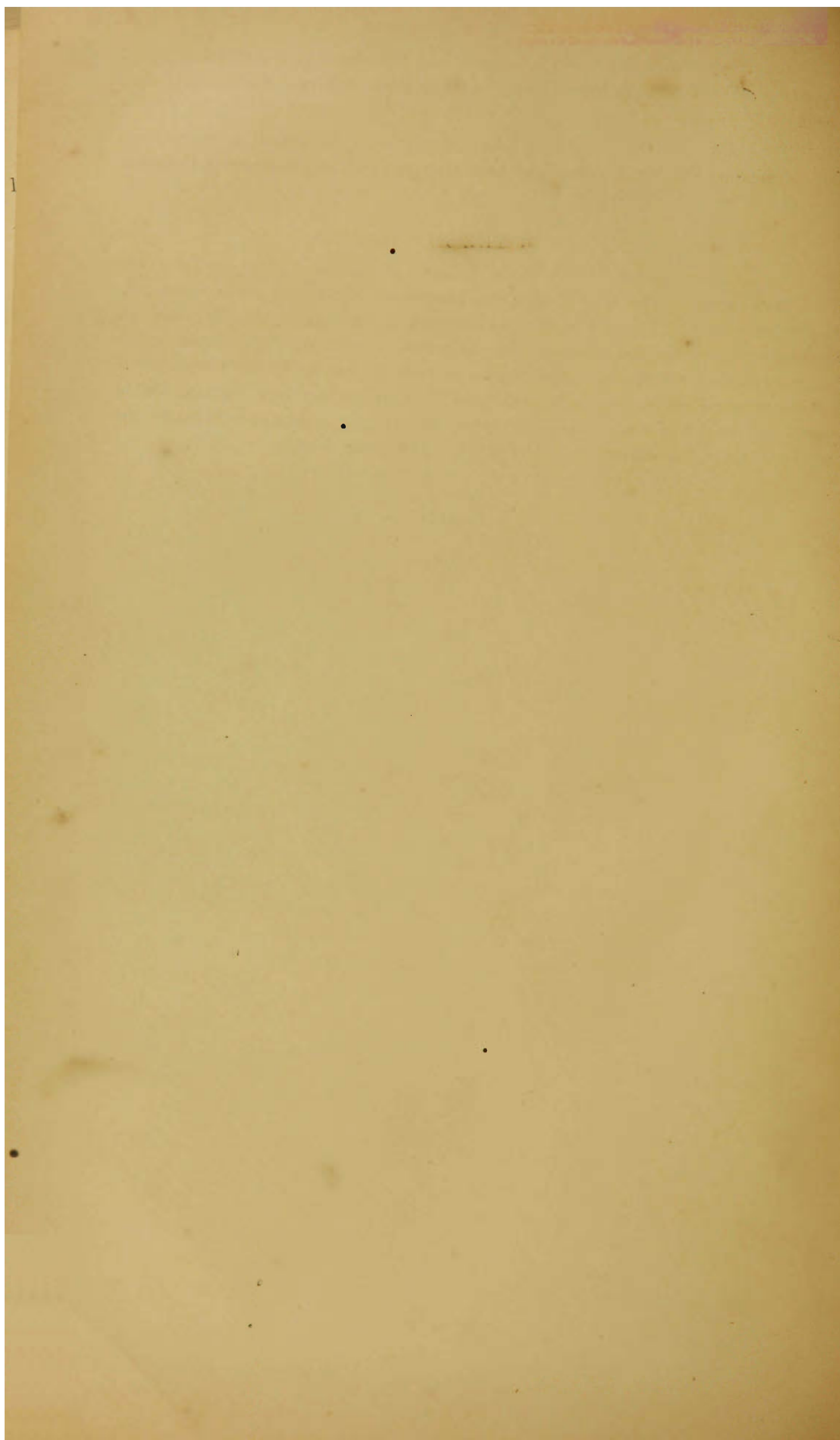
16. Srimûlasthânam where he saluted the Brahmans and performed Pooja to the God of Vrishâdri (Trichur). This is the account of Parasu Rama's acts as I have heard.

Thus ends the 50th Chapter of Kêrala Mahâtmyam a discourse between Garga (Guru of Yadus) and Yudhisthira (the eldest of the Pândus) in Bhugola Puranam.

SUMMARY OF THE 51ST CHAPTER.

Rama gives the name of 'Nayakas' (Nayar) to the issue of these Deva and Gandharva women. The sons of the Deva women are allowed to cohabit with the daughters of the Gandharva women, and vice versâ. Their issue, the Nayakas, are enjoined to follow the Marumakkathâyam Law both in respect of inheritance and in respect of funeral ceremonies. He then arms these Nayakas, for the protection of temples and Brahman house, and establishes 'Kalaris,' or military schools, for the training of these Nayakas in the use of arms. And lastly directs the Nayakas and the Brahmans to do mutual services in all their (religious ?) acts.

(Signed) K. KRISHNA MENON.





CALICUT:

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

Answers to Interrogatories

1.—Yes; except when the lower division is of a caste which does not strictly come under the denomination of Nayars, *e. g.* Vâniyans (oil-mongers) and Pallichâns in North Malabar; weavers (Châliars); barbers called Nâsiyan, Nâviyan, or Valinchiyan in North Malabar, and (Velakathalavan) in South Malabar; washerman (called Vannathân in North Malabar, and Veluthêdan in South Malabar); and Potters (Kusavan or Antiyurân). In South Malabar the Vâniyan class is called by the name of Vattekat Nayar; and Nayars and other higher castes there, form Sambandham with this class, and also the classes known as Pallichân and Antiyurân.

2. No. But it appears that in the 7 amsams constituting the portion of the Ponnani Taluk known as Manapuram, women of higher divisions of Nayars, such as, 'kiriya' form Sambandham, of an informal character, with lower divisions, such as Pallichâns, Vattakât, &c. But the wife and children, in such cases, do not partake of food prepared at the husband's house, nor is the husband allowed to touch the wife, or her female children, while taking their food.

3. Sambandham between different divisions is altogether prohibited when they are not divisions of the same caste, or of a higher and a lower caste, with the exceptions above noted. For instance, there are many Akathchârna and other subdivisions of Nayars both in North and South Malabar, whose relative social rank is a subject of dispute between them, each claiming superiority over the other, and is unsettled by the verdict of the superior castes; and, therefore, no intermarriage takes place among them. For this reason, there is no intermarriage between men and women of the Chârnat division with men and women of the Sudra division. So there is also no intermarriage between Menons of the Purathchârna division in Bettathnâd, the Menons of the same division in Nedunganad, and the Akathchârna Menons.

The Purathchârna Menons of Bettathnâd, as members of a caste devoted to the service of the extinct family of the Kshatriya Raja of Bettathnâd, consider themselves superior to Akathchârna Menons, who are attached to the house-hold of the Zamorin, and also to the Menons of the Purathchârna class in Nedunganad who are attached to the service of the 'kathâkanmar' styled Nambiâtiripad, and Nitingietiripad. There is another class of Purathchârna Menons in Calicut, who are so called simply on account of their position outside, or independent of, the domestic service of the Zamorin. They are admitted to be socially superior to the Akathchârna Menons, whose women they are allowed to marry. In their house the women of the Akathchârna division occupy a position of inferiority, without entering their kitchen or being admitted to take part in their social and religious ceremonies.

There is one class of 'Chârna' Menons in Choughat, who are devoted to the service of the Punnathur Raja. They give their women in marriage to the Akathchârna Menons, and also to both the classes of 'Sudras' known as "Pasu (cow) Sudras" and "Eruma (buffalo) Sudras." The Sudras, who are attached to the house-hold of Vedic Nambûdiri Brahmans are known by the former name, while the 'Sudras' attached to the inferior Brahmans of the 'Pannayannur Gramam' in South Malabar, who are excluded from the study of the Vedas, are known by the latter name. Men and women of the class of the Menons above mentioned are not allowed to enter the kitchen of the 'Sudra,' or of the Akathchârna Menons.

The "cow" Sudras are regarded as superior to the "buffalo" class, and are allowed to marry their women, who are not permitted to enter the kitchen of the former.

There is now a growing tendency in inferior divisions to look with disfavor on Sambandhams with any classes other than the higher class of Nayers known as 'Kiriya' in South Malabar, and 'Purathchârna' in North Malabar. The Vattakât Nayers of South Malabar, who formerly used to give their women in marriage to Akathchârna Menons, now refuse to do so: they, however, still continue to form Sambandham with the 'Sudra' division.

The Pallichân and the Athikurishi class of Nayers in South Malabar form Sambandham with the 'Sudras' and the higher classes of Nayers, but not with the Vattakât Nayers.

4. If the divisions stand on a footing of social equality, a Sambandham between them, though not customary, would not entail any serious consequences, such as excommunication, &c., on the parties. Such connexions would, however be regarded by the orthodox members of the community as improper; but beyond the unfavorable comments they generally evoke for the time being, they are not visited with any practical displeasure of the society. When such a Sambandham takes place between a woman of recognized superior division and a man of an inferior division, it would, except in the cases above referred to, generally subject the parties to social ostracism.

I must here remark that in all parts of the country, caste restraints have, in recent times, been considerably relaxed by reason of the progress of education, the levelling proclivities of English-educated men, and the decay of the influence of Rajas and caste organizations. The people are, therefore, now-a-days more than ever inclined to tolerate and connive at social aberrations, except when they are of a very glaring character, as when a high caste man forms a connexion with a woman of a Tiyan or of a similar caste, which pollutes by approach or contact.

5. No.

6. The river known as Korapuzha.

7. The Nayers of South Malabar are not allowed to form and, therefore, do not form, Sambandham with those of North Malabar. But the Nayers of North Malabar form Sambandham with the women of South Malabar. A high caste Nayar of North Malabar is allowed to marry a woman of all Nayar castes in South Malabar, except certain chieftain families which generally give their women in marriage to Brahmans.

8. A Nayar of South Malabar is not allowed to form Sambandham with women of any division of Nayar castes in North Malabar, whether superior or inferior. The Nayers of North Malabar have been, at all times, regarded as socially superior to those of South Malabar, who practically admit their superiority by giving their women in marriage to them. This was probably due to the general laxity of morals and the polyandrous practices which, in old times, widely prevailed in South Malabar, and also existed, though in a diminished form, within living memory. As the paternity of these people thus came to be regarded, at least by the people of North Malabar, as a matter of uncertainty, their general social degradation as a class, it may be presumed, followed as a natural consequence.

No division or sub-division of Nayers, high or low, in North Malabar, would allow Nayers of any caste, however high, in South Malabar to enter their kitchen; and Nayar women of any caste or division in North Malabar would not partake of food prepared by a Nayar man or woman of the highest caste in South Malabar.

9. It is not customary for the Nayar women of North Malabar to cross the Korapuzha and to go to places beyond it. There appears to be in the present state of society, no valid or reasonable objection to their doing so. The practice has of late been, in a few instances, departed from; and there is a general feeling among English-educated men, and even among the orthodox Nayers, that this inconvenient custom ought no more to be adhered to.

10. The prohibition has existed from the earliest times, which accounts for the difficulty now felt to ascertain its origin with precision. In the absence of any known or ascertainable reason for the custom, there have necessarily been speculations of a more or less satisfactory character. One view is that the ancient Raja or Rajas of North Malabar, who were engaged in a long and continuous warfare with those on the other side of Korapuzha, interdicted the women of North Malabar from crossing to places beyond Korapuzha. Another version attributes the prohibition to the loose morals and polyandrous connexions which, at one time generally prevailed in South Malabar, and those who incline to this view consider it natural that the people of North Malabar, whose sexual morality and marital relations have always been of a very strict character, should have, with the sanction of their rulers, introduced the practice in question with a view of preserving the chastity of their women uncontaminated by intercourse with the people of South Malabar.

I am, however, inclined to think that these views, though ingenious are, as far-fetched as they are remote from truth. It seems to me that the prohibition to cross the Korapuzha, as in the case of all other large rivers, which could not be crossed except by boats rowed by Mâpillas and fishermen, simply originated from reasons of caste. Thus it is well-known among old men and women, that the people of Calicut were, in old times, prohibited from crossing the Châliyam and Katalvandi rivers; and I have known instances in which ladies in South Malabar, had, some 40 years ago, objected to crossing these rivers, and also the Korapuzha river. I knew a lady of South Malabar (my late mother-in-law) who was married some 40 or 45 years ago by the late Avinhât Nayar, styled Mûthavar, who was a chieftain, and was then residing in the palace of his father, the Raja of Katathanad. She had to cross the Korapuzha river on her way to the palace of the Kuttipuram Raja; and, as this violation of custom was due to the action taken by the junior members of the family during the illness of the Karanavan, who shortly afterwards died, the Karanavan had vowed, on his death-bed, that he would, if he recovered, avenge the injury.

I know as a fact that even now the poorer members of the Vattakât caste, in South Malabar, who, like the lower orders in general, are great sticklers for old customs, religiously abstain from crossing to the North Malabar side of Korapuzha river.

The Nambudiri ladies even now avoid crossing the Châliyam and Katalvandi rivers, by adopting circuitous methods of locomotion. The Valapatanam river in Chirakkal Taluk was always crossed by boats manned by members of the Pitâran caste, who were and are even now expert in rowing boats; and there was therefore no prohibition in the case of this river, which is the largest in North Malabar. There were no Pitârans employed on the Kuppam river in Taliparambâ, which is a pretty

deep and large one. Members of the 'Potuvál' caste in Payyannur, who are a sort of Nayers, would not even now cross this river.

The prohibition as to crossing the large rivers of which the Korapuzha is one, which arose from reasons of caste, was easily disregarded and discarded by the accommodating people of South Malabar, who readily adopted themselves to the spirit of the times and the progress of civilization; but the people of North Malabar, always conservative in their habits, blindly and tenaciously adhered to the prohibition, which therefore remains in force up to this day. Their complete isolation and the extreme absence of any connexion or communication with South Malabar in old times, enabled them to preserve this custom unaltered. It is only within the last 30 or 40 years, since North Malabar men began to be employed as public servants in South Malabar, that the custom was at all brought into prominent notice and its inconvenience felt.

The first man in North Malabar, who tried ineffectually to break through the custom was the late Kuvukal Kelu Nayar, a late Sub-Judge of South Malabar. His son Kunhi Raman Nayar, who was also Sub-Judge of Calicut, too, failed in his attempt to take his wife to Calicut. The attempt of the father and the son, who were most influential members of the 'Uráli' caste, in North Malabar, would have been crowned with success, but for the extreme bigotry and conservatism of the class. Two or three ladies of the higher class of Nayers have since been taken to Calicut by their husbands; but the Urális, as yet show no signs of relaxing their rigour.

In the face of these plain facts, the theories generally suggested seem to be unfounded and illogical. It does not stand to reason that the whole people of North Malabar had joined together to bring about a prohibition for which there was, in the early state of society, no reason or necessity.

11. *Táli-kettu Kalyânam* is an institution common to all Marumakkatayam Hindus of Malabar. It consists, as its name imports, in tying the 'Táli' round the neck of the girls on whom the ceremony is performed. Every girl of this class of Hindus in Malabar has to undergo the ceremony before she attains maturity, and the ceremony is performed at any time after the "rice giving" ceremony (which takes place or ought to take place, in the 6th month after birth), up to the age of 11 or 12, *i. e.*, before the attainment of puberty. In North Malabar, especially in respectable families, the ceremony is performed only in the odd years from the 5th year up to the age of 11 at latest. It is now performed on many girls at a time, for reasons of convenience and economy.

There are strong reasons to believe that the *Táli-kettu kalyânam* was originally the marriage itself, and that the real marriage ceremony, which is now performed, after '*Táli-kettu*,' under the names of '*Putamuri*,' '*Sambandham*,' '*Mangalam*,' &c, did not exist in the earliest ages.

In the remotest ages when the Brahmans colonized the country, they must of necessity have introduced into it the customs and practices, which obtained among them and the other castes, which followed in their train. As the oboriginal inhabitants of the country, who are generally supposed to be the present Cherumars (slaves) and Paniyars (foresters) were, from their low and degraded condition, unsuited for the formation of matrimonial connexions with them by the Brahmans, they must have been, owing to the paucity of women in their own caste, in the course of time, reduced to the necessity of marrying women of the Vellála (Sudra) caste. Such marriages were allowed by the Code of Manu, when a Brahman was desirous of

taking a second wife. “ശുഭൈവഭാര്യാ ശുഭസ്യ സാചസ്പാല വിശഃസുതൈ തൈസാ ചൈവരാജന്യൈ തായാ സ്വാചാഗ്രജന്യഃ”—“സവണ്ണാഗ്രഭിജാനീനാം പ്രശസ്താദാര കണ്ണി കാമതസ്തു പ്രപുത്താനാമിമാന്യഃ കുമരോപരാഃ” “a Sudra woman only must be the wife of a Sudra; she and a Vaisya, of a Vaisya; they two and a Kshatriya, of a Kshatriya; all these and a Brahmini of a Brahman.” (Ver. 13. Ch. III).

“For the first marriage of the twice-born classes, a woman of the same class is recommended; but for such as are impelled by inclination to marry again, women in the direct order of the classes are to be preferred,” (V. 12. Ibid).

Vasistha also says “The twice-born classes may marry a Sudra woman, but without Mantras”.

(“ഭിജാനീനാം മരവർജ്ജിതം ശുഭാവിവാഹ മാഹ”).

It may be assumed that the practice was, therefore, introduced of the eldest member alone of a Nambûdiri family marrying a woman of his class; and the marriages of the other members being treated as a second marriage in his family, they were directed to marry Sudra women. The introduction of this custom effectually removed the difficulty of finding wives for the Nambûdiri; but they were, at the same time, compelled to introduce also the Marumakkathâyam system of inheritance for Sudras to preclude the children of the Sudra women from inheriting their properties.

On the marriages of the Nayars and the other non-Brahman castes, which must have been, in the early times, solemnized before puberty, the Tâli-kettu ceremony was, therefore, performed in imitation of and as a substitute for, “the Mangalya-Sûtram” (wedding-thread with Tâli) which is tied in the case of all Malabar Brahman girls, on the first day of the marriage ceremony, by the father during or at the conclusion of a sacrificial rite, which he himself performs. This ‘Mangalya, Sûtram’ is never removed from the neck of the Brahman woman even when bathing—except when it is found necessary to replace it by a new one; and it would be consigned to the flames along with the body of the woman on her death. As remarriage is customary in all classes in Malabar, except the Brahmans, the Tâli-kettu ceremony had not the same importance and significance as among the Brahmans; and it must have been introduced as a substitute with the object of consecrating the marriage.

The circumstance that the ‘Muhûrtam’, or auspicious moment for the Tâli-kettu ceremony, is even now ascertained and fixed by examining the horoscope of the girl as if for a marriage, and on rules regulating the ascertainment of ‘Muhûrtam’ for the marriage, supplies a strong piece of evidence in support of the position that Tâli-kettu ceremony was originally performed at the nuptials, and as a part of the marriage ceremony. After Tâli is tied, in some cases by the Brahman, in others, by the husband himself, the marriage ceremony, it may be assumed, was consummated by the Pudamuri or such other formalities as prevailed in different parts of the country.

The Pudamuri form of marriage must have been introduced in addition to the ordinary ‘Tâli-kettu’ at the time when the Brahmans began to form matrimonial alliances with the Nayars, in accordance with the directions contained in the Code of Manu, which says “A Kshatriya should, on her marriage with a Brahman, catch hold of (instead of Pânigrahanam, or holding his hand) an arrow held in his hand; a Vaisya woman, on her marriage with a bride-groom of the sacerdotal or military class a whip (held in his hand); and a Sudra bride, marrying a priest, a soldier, or a merchant, the skirt of a mantle, (with which he covers his body).” “ശരഃ ക്ഷത്രിയയാഗ്രാ ഘ്നഃ പ്രതലോ വൈശ്യതന്യയാ വസനസ്പദശ്ശോഘാ ശുഭയോക്തൃഷു വേദതൈ.” (V. 44. Chap. III).

It is easy to conceive that instead of the bride seizing the skirt of the mantle, the delivery of the 'Puda' or cloth to her was prescribed as a more formal and dignified method of solemnizing the marriage.

It may therefore be safely assumed that the Tâli-kettu kalyânam was, as its name signifies, originally performed as the marriage ceremony : and that it has, in the course of ages, degenerated into an unmeaning and costly farce, entirely disconnected with and divorced from marriage. The reason for this bifurcation is not far to seek. As among the Malabar Brahmans, the rule that marriage must invariably be performed before puberty had in course of time to be departed from, owing to the extreme difficulty experienced among a limited class like Nambudiris, of securing husbands before maturity, the rule that 'Tâli-kettu kalyanam', or marriage among non-Brahman classes, should be celebrated before puberty had also to be infringed for similar reasons ; and the practice of having the 'Tâli-kettu ceremony' performed by a Brahman before the age of puberty, even though a husband was not procurable at the time, was gradually established : and when a husband was available the ceremony of marriage was afterwards performed as a separate and distinct one under the names of 'Putamuri,' 'Sambandham' &c.

The peculiar position of Brahmans in Malabar and the numerous other peculiar customs which were consequently introduced among them, enabled them, when pressed by inevitable necessity, to set at naught, with impunity, the rule that marriages among Brahmans should be solemnized before the attainment of puberty ; and it is easy to believe that their example and precept were obeyed and followed by the other classes under similar circumstances. When in process of time, the Tâli-kettu ceremony was degraded into a mere formal and unmeaning institution, the practice was gradually established of performing the 'Tâli-kettu' at the same time on a number of girls, of different ages, with the object of minimizing the expenditure of labor and money.

The above view regarding the original character of the Tâli-kettu ceremony derives great support from a similar practice with regard to marriage ceremony, which now exists among the Kshatriya families in Triponathara in the Cochin Territory. The marriages of Kshatriyas, like their other ceremonials, are similar to those of Nambudiri Brahmans ; and it is the Nambudiris that perform their sradhams (funeral oblations) and other ceremonies. In the Royal family of Cochin, the Nambudiris marry the ladies in the same fashion in which they marry women of their own caste. It appears that they, however, do so in consideration of the large sum of Rs. 3,000 which is paid to them on the marriage, a pay of Rs. 8 per mensem which they subsequently receive' from the palace and the social importance which they derive from the connexion. It is said that such Nambudiris are not admitted to sradhams &c. by the Nambudiris of British Malabar.

The absence of the advantages above noticed, and the attitude of the Nambudiris of British Malabar deter the Nambudiri Brahmans from marrying the ladies of the other Kshatriya families in Cochin, of whom there are said to be a very large number there. These Kshatriya families have, therefore, been driven to the necessity of employing a class of foreign Brahmans, known by the name of "Arya Pattars" (who, like the Nambidi Brahmans of Malabar, who have lately assumed the name of Nambudiris, are not entitled to study the Vedas) to marry their women, according to the established usage of Kshatriyas, by performing nuptial ceremonies which last for four days. On the 4th day, they are therefore compelled as in a regular marriage,

to allow the "Arya Pattars" who are invariably poor men hired to perform the marriage ceremony for a fee, to sleep with the girl. This marriage ceremony is generally performed before puberty, but it is said that sometimes, though very rarely, it takes place also after puberty; but in such cases, and sometimes on ordinary occasions also, the girl is taken away from the room by elderly ladies of the family, or the 'Arya Pattar' is dismissed shortly after being admitted into the room.

After the celebration of the marriage in this fashion, a Nambudiri is allowed to form "Sambandham" with these ladies, and the Nambudiri is changed, and another taken when such a course is found necessary. This strange custom saves the women from the social degradation which would attend the omission to celebrate the customary marriage ceremony, according to the prescribed rituals.

The 'Tâli-kettu kalyânam' of the Nâyars and other castes in Malabar, is thus a relic of marriage as originally performed by all castes in by-gone times; but, as it has now degenerated into an unnecessary and ruinous pageant, kept up simply by the tyranny of custom, there is no reason for its retention or preservation as a national institution. It might therefore be replaced by the marriages as now performed, the Tâli being tied by the husband himself.

As a relic of the old marriage, the Tâli-kettu ceremony is generally of four days' duration. On the first day the girl is made to bathe early in the morning and is then placed in the Patinyâtta, the middle room of the house, which is considered the most sacred part, and she is not allowed to leave the room except for necessary purposes. The usual lighted lamp with a 'nâzhi' and 'edangali' measures, (made for the occasion, of Pâla wood) filled with rice and paddy, will be placed in the room.

In North Malabar the girl is made in some parts of the country, to sit on a blanket with a piece of newly washed cloth, specially supplied by the washerman for the occasion, laid on it. In some places the girl is not allowed to bathe for 3 days, and by the poor people and the lower orders for a day, as they generally finish the ceremony on the second day. Among the higher classes of people, on the evening of the 3rd or the morning of the 4th day, and among the lower orders on the evening of the same day or the next day, the girl is taken out of the room, bathed, and a pot of water consecrated by a Brahman in a pagoda or other sacred place, by the recital of 'mantras', and the performance of 'pooja', is poured over her head, and she is purified by the process. This ceremony is called "kalasam kulikal", or bathing by a pot of water. After this the Brahman ties the tâli round the neck of the girl at the appointed Muhûrtam, or auspicious moment, while she is seated on a plank newly made of "Pâla" wood. This is done in the Patinyâtta room in some places and, in others, in the pandal, or pavilion, in the court-yard of the house.

There are two Tâlis employed, one made by the gold-smith at an auspicious moment, ascertained by astrologers, and the other the ordinary Tâli, supplied by the gold-smith for a fanam. The first mentioned Tâli, called 'Muhûrta Tâli', is generally borrowed from the houses of Rajas and wealthy men, and certain pagodas. The Muhûrta Tâli would be tied only on one of the girls, and the other Tâli is tied on all the girls. In the case of the families of Rajahs, and a few families of the old chieftains or rulers of the country, such as the Tangal of Puthupanam and some Atiyôti families in Nadâpuram, the Tâli is tied by the Kshatriya Rajahs of Beypore, Parpanangadi and Kurumbranad.

After the Tâli is tied a woman of the Nambisa caste, wrongly called 'Brahmani', appears on the scene, and sings certain songs relating to Krishna's birth &c.

for about an hour, while the girl is seated on a plank made of 'pâla' wood. This is done in the Patinyâtta room and also in the pandal in the court-yard of the house in the morning and evening, sometimes for a day and sometimes for two days. In Tellicherry and places to the North of it, the girl is made to stand in the pandal for some time in order to enable all the friends and relatives of the family to tie round her waist a piece of new cloth called by the name of 'Mantrakodi.'

On the 4th day, the girl is taken in a procession to a tank in the neighbourhood, followed by a large number of servants and women. In the case of Rajahs, certain Nambudiris, and other persons of rank, the girl is carried in a palanquin. Here also the Brahmani sings in a whining tone her inevitable song, and the girl is made to break against a stone the bunch of a cocoanut tree. After returning home, the Brahmani's song is again repeated in the pandal and, at the close of it, a man of the Mârayân caste ties a ring on the arm of the girl, which ceremony is called Kâppu Kettuka (tying the bracelet). In some places the ring is tied on the previous day and is untied in the pandal on the 4th day. After removing the ring he addresses her by the name of 'Akkamma' if she belonged to the class of certain high caste Nambiars, and 'amma' (lady) if she belonged to the other classes of Nayars. This ceremony is supposed to metamorphose the girl into a married woman, and the ceremony ends. I have necessarily omitted as useless and tiresome the minor and unimportant details of the ceremony.

In South Malabar, the ceremony invariably lasts four days. On the first day the girl is made to sit in the Patinyâtta or any other room, on a plank of the 'pâla' wood; and a brass-pot with an arrow and a bunch of the cocoanut tree is placed before her, in addition to the nâzhis and edangalis containing rice and paddy; and she is also made to carry in her hand, until the tâli is tied, a looking-glass made of brass with a handle of the same metal. They are never allowed to stir out of the room except for answering the calls of nature. The Brahmani's song and the attendant ceremonies are performed in the room on the first day. It is repeated in the pandal on the morning of the second day, and again at night, and also on the morning of the third day. The 'Kâppu' here consists of a tender cocoanut leaf and is tied by the Brahman on the morning of the third day. The Tâli is tied in the pandal at the auspicious moment, on the third day, by members of the girl's caste in the case of Kiriyaathil Nayar, the Sudra, the Antûrân, Athikurishi, Vattakât and some other castes, and by Nedungâdis and Tirumulpâds in the case of Purath-chârna and Akath-chârna Menons. Among these classes also the tâli was in ancient times, tied by members of the Kiriyaam caste; but as difficulty was, in the course of time, felt to secure the services of these men, the custom of having the tâli tied by Tirumulpâds and Nedungâdis for a fee, was gradually introduced. In the case of some Nayars of the chieftain class (Nâtuvâzhis), who were rulers of portions of countries in ancient times, the Tâli is tied by Nambûdiri Brahmans. After the tâli is tied, the man who ties it is taken along with the girl into the Patinyâtta room, and is made to sit by her side on the 'pâla' plank. After the offer of betel leaf, which is done, sometimes by the girl, and sometimes by the elderly women for her, he departs on receiving a fee of a Rupee or so for his services.

In South Malabar, the girls do not bathe for 3 days; and there is no purification by Kalasam, or pouring consecrated water over their heads, before tying tâli. The ceremony of going to the tank in procession, with a large number of attendants male and female, is also not performed here. The girls bathe only on the morning

of the 4th day; and, after this, they are taken in procession to the nearest temple to worship the deity. This is done as a part of the kalyânam ceremony in South Malabar; but in North Malabar the girls are by some classes, taken to the temple on the 4th day or shortly after, by one or two of her relatives; and the custom is not observed by other classes. Both in North and South Malabar, the Tâli is, after the kalyânam ceremony is over, delivered up to the nearest temple, except among the Ambalavâsi (pagoda-servants) class of Vâriyars, and Mârâns who continue to wear the tâli for some time, until it is melted for making other ornaments. Among these classes there are slight differences in the ceremonials. The girls, after bathing early in the morning are taken to the nearest temple for worship; and after returning home, in the case of the girls of the Vâriyar class, five Brahmans perform 'Punyâham' or purification ceremony by sprinkling water on them from a brass vessel. This ceremony is also observed in the case of the Rajahs. After this, the tâli is tied by a man of their own class. The girls are placed in the Patinyâtta room, only after the tâli is tied; and the Brahmani's song and the other ceremonials are performed on the 2nd day in the room and in the pandal, the kâppu, or ring, being tied by a member of their own caste. On the 3rd day, the Brahmani's song takes place in the pandal, and this is followed by the "kulangara pâttu", or the procession to the tank, where also the Brahmani sings. On returning, the Brahmani sings again in the pandal, and the song is repeated also at night. After this the parties and relations of the girl tie the 'mantra koti' round the waist of the girl. Early in the morning of the 4th day, the girls are made to offer 'Gurusi,' water mixed with chunam and saffron, to the sun by pouring it towards the sun with their hands; and this ceremony is called 'âdityanê polikkuka', or offering to the sun. The girls are then made to sit in the pandal on a new cloth spread over the blanket, and the friends and relatives of the girls make money presents to them, according to their position and means. The kâppu or ring is after removed, and the girls are taken into the house, and this completes the ceremony.

Among the 'Nambisan' caste, who are another class of pagoda servants, the tâli is tied by the Karanavan, or the father, at the marriage, which is celebrated for 4 days with almost the same rituals, as among the Brahmans; such as the recitals, of mantrams, the performance of hômans, the pânigrahanams (seizing of the hand), saptapadi (the seven steps) This class wears the sacred thread and has also the tonsure, Upanayanam and other ceremonies incidental to Brahmans.

There are also minor differences in ceremonials among the lower castes of Antûrân (Potter), Vâniyan (oil-monger), Vannathân (washerman), Châliyan (weaver), and Nâviyan (barber).

In the first mentioned or Antûrân caste, the tâli is tied, as among Nâyars, by the Brahmans; and though they are not recognized as Nâyars, they sometimes call themselves as such; and the Nâyars in some parts of North Malabar make use of butter-milk prepared by them.

The other castes above mentioned, and in some places in North Malabar, the Antûrans also, pollute the Nâyars by touch. The Vâniyan (oil-monger) and Vannathan (washerman) go to the Brahman's house, and the Brahman throws the tâli round the neck of the girls. It is then tied by the member of their own caste, who is eligible to marry the girls.

In the case of the Châliyans, the tâli is tied by members of the family of the Urâlans or trustees of the Ganapati pagoda, of which there will be one in every

street inhabited by weavers. Among this class and Vâniyans, it is customary to perform the tâli-tying ceremony on all the girls in the street or the neighbouring amsams, at the same time. Among Châliyans, the custom is to tie the tâli on 9 girls in one house in the street, of whom, there can only be one girl who is a member of the house, and one girl who is the daughter of the Karanavan of the house, the other girls, if any, of the house being taken and segregated in another house, along with girls of other families. The girls are collected generally in 9 houses in the street, and if need be more.

Among Weavers there is a peculiar custom which requires each member of the houses of the trustees, who ties the tâli, to start for the girls' house from the Ganapati's pagoda. He first takes a cocoanut and a bundle of betel-leaves in his hand, places them on the door-stone of the pagoda, takes them back, breaks the cocoanut on a stone image outside the temple, representing the god 'Gulika,' and then standing before the pagoda, holds the bundle of betel-leaves with both hands over his head. About 40 or 50 men of the street, belonging to the houses of the girls, gather round him to assist him in his endeavour to take the bundle of betel-leaves in his hands to the particular house to which he is going for tying the tâli, while all the persons assembled numbering generally from 300 to 1000, rush against him for the purpose of seizing and carrying away by force the bundle of betel-leaves in his hands. A general and, often, a very vehement, scramble sometimes resulting in broken limbs, ensues and continues all along the way to the house of the girls; and by the time the house is reached, the greater part of the betel-leaves, except a few remaining in his hands, are snatched away by the mob. The house is finally reached, and the betel-leaves remaining in the hands of the man are thrown by him over the pandal in front of the house. He then ties the tâli, the tâli being delivered to him by the 'Potuvans' or barbers of the class. The consent of the assembly to tie the tâli is formally asked for and given in a chorus of vociferation. The money required for the ceremony is raised by contributions from the houses concerned.

Among the Vâniyans (oil-mongers) as among the Châliyans, the Tâli-kettu ceremony is performed only once in 10 or 12 years. One of the well-to-do members of the community, in a part of the country, fixes a day for performing the ceremony of his girls; and all the other families in that part of the country take their girls to his house, a fee between 2 and 3 rupees being paid for each girl to the owner of the house. Thus it generally happens that the Tâli-tying ceremony is performed on about 200 and more girls, at a time. They are all marched to the house of the nearest Brahman, who throws the Tâli round the neck of each girl, the Tâli being tied by members of their own caste.

Among Tiyers, the ceremony is of a simpler kind. The custom of keeping the girl in a room for 2 or 3 days obtains among them also, as in all other castes. The tâli is tied in Tellicherry and places to the North of it, by a woman of the class of Tiyan barber, known as 'Kâvutian,' and by the mother of the intended husband of the girl, if any one is found to offer himself as such. It is the custom in these places, and in Katathanâd, for the barber to call aloud in the pandal "if there was any man prepared to marry the girl?" and, if any such be present, the mother of the intending husband, in Tellicherry, and the man himself, or, in his absence, his mother, in Katathanâd, comes forward and ties the tâli. In the absence of the intending husband, the tâli is invariably tied by a man of the barber (Kâvutian) caste in Katathanâd.

In places to the South of the Murât river, 3 miles to the South of Badagara, the paternal aunt of the girl or the niece of her father, or the mother of the intending husband ties the tâli. In the absence of the relations of the girls' father, a woman of a different house is made to perform the office. In these parts, it is not customary to call aloud for intending husbands, but the thing is done privately in consultation with the members of the girls' house.

There are certain castes below Tiyaṅs following Marumakkathâyaṁ, among whom also the tâli-kettu ceremony is observed. They are Paravans (stone masons), Kâvutians (barbers of Tiyaṅs), Vannâns (washer-man of the Tiyaṅs,) Mukkuvars (fishermen by profession), and Vettuvans (stone-masons).

The practice of keeping the girls in a room for 3 days is observed among all these castes, and the tâli is tied after bathing on the 4th day. A woman of the Paravan caste, called 'Pâtamma', or songstress for the Kalyâṇam ceremony, ties the tâli among the Paravans, unless when an intending husband is forth-coming, when the tâli would be tied by his paternal aunt, or the wife of his Karanavan.

Among the Kâvutians, Vannâns and Mukkuvars, the tâli is tied by their barbers called 'Atuthavans'; and amongst the Vettuvans the tâli is tied by the eldest female member of the girls' father's house.

12. This question has been already answered in dealing with question 11. As to the question, who should tie the tâli? the answer must necessarily be that the husband is the proper person to do it. He is not now called by any particular name; but he was originally called by the name of Manavâlan, a word which is in more frequent use in South Malabar, and is not unknown in North Malabar.

13. It is the custom in North Malabar for a number of girls to have their tâlis tied at the same time and place, by the same man or woman, as above stated. This practice does not exist in South Malabar where each girl has a separate man to tie her 'tâli'.

14. No. The man who ties the tâli is simply regarded as a stranger, whose services, like those of so many others, are required for the purpose of performing the ceremony. He leaves the house directly after the tâli is tied, and is, except among the kiriyam and other classes of Nairs in south Malabar where a man of their own caste ties the tâli, altogether forgotten.

The man who ties the tâli acquires no marital rights thereby, and the ceremony is not now regarded in any sense as a marriage. He cannot be allowed to cohabit with the girl, unless and until he afterwards marries the girl in the customary manner.

15. Except among the Tiyaṅs, and the other lower castes mentioned above, among whom the tâli is tied by their barbers, the man who ties the tâli is always of a superior caste or a member of the same caste. There is, in the case of the other castes, no objection or prohibition, on the score of caste, to his afterwards forming Sambandham with the girl, if he is, otherwise, considered as a proper and suitable husband.

16. No.

17. There is no pollution to the girl except in the case of the Kiriyam and other classes in South Malabar among whom the tâli is, as above remarked, tied by a member of their own caste. In such cases the girl observes pollution for 15 days.

18. Among Nairs the tâli is sometimes tied in South Malabar by the mother of very poor girls, when the child is below the age of one year.

Sometimes also the mothers of poor girls, who are unable to incur any expenses for performing the 'tâli-kettu,' tie the tâli on the girls on 'Onam' days or on the previous day, before 'Trikâkarappan,' an earthen image of the king 'Mâhâ Bali,' which is generally made in all houses during the annual Onam feast.

19. Yes.

No. The Nairs and other non-Brahman classes have no rituals and no form of marriage prescribed by Sâstras. The tâli-kettu is, therefore, a conventionality purely arbitrary. Manu says (Ch. III. Verse 35) "അഭൂതവ ദാമിണി ഗ്രാണാം കന്യാ ഭാനം വിശിഷ്ടതേ. ഇതരേഷാംതു വസ്ത്രാനാ മിതരേ തരകാമൃതം"

"The gift of daughters in marriage by the twice-born classes is most approved when they have poured water (into the hands of the bridegroom); but the ceremonies of the other classes may be performed according to their several fancies."

20. Yes. In North Malabar a ceremony which is regarded as a valid form of marriage, and known by the Sanscrit name of 'Vastradânam,' or gift of cloth, and the Malayalam name of 'Putamuri' (the delivery of a piece of cloth into the hands of the bride by the bride-groom) is invariably performed by all classes of Nairs, after the tâli-kettu ceremony, and as an indispensable preliminary to a girl being allowed to consort with a man.

The Putamuri ceremony is performed in North Malabar with due formality and pomp. On a day previously appointed, the horoscopes of the bride and the bride-groom are examined by an astrologer, and an auspicious day fixed for the celebration of the ceremony. It, however, seldom happens that an eligible husband is rejected in consequence of the disagreement of the horoscope.

The marriage among all classes, except among the Tiyans, is performed during the night, and the bride-groom, with a large number of friends and followers, ranging between 15 and 30 in the case of poor people, and 50 and 400 in the case of wealthy members of society, according to their social position and rank, arrive at the bride's house generally between 8 and 12 P. M., and sometimes later. In a recent case, the bride-groom who was a Rajah in North Malabar, was followed to the bride's house by upwards of 4000 men.

The marriage ceremony is performed before dinner, in the 'Patinyâtta,' or middle room of the house. The bride is brought to the room by 2 to 12 ladies of her house, and while standing, she is made to make to two Brahmans the gift of a few annas, and these gifts are known by the names of 'Dânam' and 'Muhûrtam,' the latter gift being originally intended for the astrologer, who fixed the auspicious moment. The bride-groom then stands facing the bride and places in her hands two pieces of cloth, from among a large number (from 4 to 64), brought into the room, the bundle consisting of the other pieces, being left in the room. If the bride-groom is a Rajah or a chieftain, instead of the cloths, one or two pieces of silk and 4 gold bracelets would be placed by him in the extended hands of the girl; and the marriage is, in such cases, known by the name of "പട്ടം വളയംകൊടുക്കൽ" (Pattum Valayum Kotukal) "giving of silk and bracelet."

After this the bride and the ladies retire. After dinner the bride would be brought by one or two ladies of her house to the room in which the bride-groom sleeps. In Tellicherry and places to the north of it, some 20 or 30 women are sent

to the bride's house by the bride-groom's family, the next day, to take the bride to the house of the bride-groom. In Katathanād and places to the south of it, the bride is taken along with the husband and his party early next morning.

Among the 'Vāriyar caste,' though the marriage is known by the name of Putamuri, no cloths are taken to the bride's house and none is delivered to her. But the husband merely pays some money into the hands of the bride, and this is intended to cover the expenses of the marriage ceremony. Among Nairs and the other classes also, some money is, in some parts of North Malabar, given, tied to the cloths.

There is also, as above remarked, no delivery of cloths among the Nambis-sans who performs 'hōmam' and other ceremonies, resembling those of the Nambu-diris in certain respects.

The Putamuri among the classes of Anturān, Vāniyan (oil-monger) and Vannathān (washerman) is almost the same as among the Nāyars. Among the 'Nāviyans' or barbers, it is the same, but before delivering the puda, or cloth, the bride and bridegroom are made to sit close to each other on a blanket with a new cloth laid on it; and while they are so seated, all the cloths, which generally consist of from 4 to 12 peices, are placed in a heap over the thighs of both the bride and bridegroom: and in this position the bride-groom delivers some betel leaves and money to the bride. This done, they rise, and the cloths are then delivered by the bride-groom to the bride. Among all these classes, it is customary to give into the hands of the bride, not two pieces only, as among the Nāyars, but the whole number of cloths brought by the bride-groom.

Among the class of weavers, or Chāliyars, the marriage ceremony is known by the name of 'Pāni-kondu-varika'. The ceremony of marriage among them is peculiar, and differs from that of all other castes, high or low, in Malabar. The bridegroom does not go to the bride's house, but merely sends a few friends and neighbours, consisting of males and females, to fetch the girl. They go to the bride's house in the night, and are feasted there. The girl is brought into the 'Patinyātta' room, and some money is paid into her hands by the Karanavan, father, or other relative of the bride-groom. This completes the ceremony.

Among Tiyars the ceremony was till lately known by the name of 'Pen-vāzhcha', a name which has, in recent years, been almost superseded by the name of 'mangalam'. The ceremony is invariably celebrated in the day-time. There is a man called middle man (natukāran) among the Tiyars, who is called 'Tandān' in places to the South of the Murāt river. The middle-man of the bride-groom and some of his relations go to the bride's house and, in consultation with the bride's middle-man and relations, appoint a day for the examination of the horoscope. The horoscope is then examined on the appointed day in the house of the bride, where the middle-men of both parties and some of the relatives and neighbours would be present. After this a sum of 11 fanams (about 2¼ Rs.) is paid by the middle-man of the bride-groom to the Karanavan of the bride. This ceremony amounts to a formal betrothal, and is known by the name of "കെട്ടിക്കുറിക്കുക" (kettikurikkuka).

On the day appointed for the celebration of the marriage, the bride-groom attended by a 'changāti' or companion, and in some places, two of them, who would be dressed like himself, and by a large number of friends and relations, both male and female, proceed to the bride's house, where the marriage ceremony takes place.

The ceremony consists in the bride and bride-groom being made to sit close to each other on wooden 'palakas', or planks, in the middle room of the house, and rice being strewed over their heads by their relatives and the elderly men and women in succession. After this the middle man of the bride declares, in the hearing of the men present in the room, that, with the knowledge of the Tandân (middle-man) of the Tara (village) and the chief man, such a man marries such a girl. The bridal party, after being feasted, proceeds to depart; and before taking the bride with them, the kânam money is paid to the karanavan, or father of the bride. The old custom was to collect a sum of 2 fanams from each of the persons who had accompanied the bride-groom, and to pay the amount as kânam, or marriage fee, to the bride's relations. As this custom was found in practice to work inconvenience, it has lately been disposed by payment of a fee of fanams 42 or 52 (Rs. $8\frac{1}{2}$ or $10\frac{1}{2}$) in a lump. But the old practice has not yet died out, and is even now adhered to by the poorer members of the community.

After payment of the kânam fee and before taking the bride out of the house, a further fee of 2 fanams is paid to her 'Machunan' (uncle's son), in full satisfaction of his prior and superior claims to the hand of the girl. The bride is then taken from the house, dressed in a cloth specially supplied by the husband, to the bride-groom's house, which is generally reached before sun-set. The next day in Telli-cherry, and, after a few days, in some other parts, the bride and the bride-groom, each with one follower, and, in some places, a larger number of followers, go to the bride's house, and stay there for the night, returning to the bride-grooms' house after breakfast, the next day.

The custom among the 5 other castes below Tiyans, above-mentioned, differs in material respects. In all these castes the marriage is performed, as among Nayars, during the night, and no females accompany the bridal party. Among the caste of Paravans (stone-masons) the marriage is known by the name of 'Putamuri', and the name is true in its literal sense. The bride-groom takes with him a piece of new 'pudava' or female's cloth to one end of which is stitched a new 'muntu' or male's cloth; and while the bride would be holding in her hand the 'putava', the bride-groom holds the 'muntu' and separates the 'putava' from the 'muntu' by cutting over the stitched portion with a knife. The 'muntu' is then handed by him to the bride, and a sum of 42 fanams (about Rs. $8\frac{1}{2}$) is paid by the bride-groom's relations as kânam to the karanavan of the bride. This completes the marriage ceremony, and the bride is taken to the bride-groom's house the next day.

Among the 4 other castes above-mentioned, both men and women accompany the bride-groom to the bride's house. The other formalities are nearly the same as among Tiyans; and the bride is taken to the bride-groom's house on the morning of the following day. Among the caste of 'Mukkuvans' (fishermen) and Vettuvans (stone masons), the marriage is known by the name of 'kôppu' (a feast) and not by that of 'mangalam'. But this word is also used by Tiyars, and all other lower castes, to designate all feasts in general.

21. In North Malabar when a Nambudiri, or a Pattar, forms Sambandham with a Nayar lady, the same formalities are invariably observed as when the Sambandhakâran is a Nayar.

But when a Nambudiri forms Sambandham in the families of Rajahs, and a Nambudiri, or a Pattar, forms Sambandhan in the families of the classes known as Ambalavâsis, or pagoda servants (Vâriar, Nambisans, and Mârân,) no formalities what-

ever are observed, the man being simply allowed to sleep with the woman on the appointed day.

In North Malabar the custom of giving Nayar ladies to Nambûdiris and Pattars in marriage is dying out, and has almost disappeared from the country. It still exists generally in the families of some chieftains, among whom the practice of forming Sambandham with Nambûdiris has existed from time immemorial, and who even now refuse to give their ladies in marriage to any Nayars other than those belonging to their own class.

Nayar women in North Malabar were seldom given in marriage to Pattars, and the practice of forming Sambandham with them has entirely ceased to exist. Sambandham with Pattars was, as a rule, not formed in South Malabar also, except by any low class Nayars. No Nayar families of any position would now-a-days form Sambandham with a Pattar, however great his official position or wealth might be. The low esteem in which Pattars are held as a class of foreign Brahmans, not always employed in dignified pursuits, accounts for the prevalent social feeling against them. The exclusion of Nambûdiris from matrimonial alliances in North Malabar appears to be due to a sense of concubinage which such a connexion engenders.

The Nambûdiris and Pattars have, therefore, been driven to the necessity of forming Sambandham with women of the Vâriar, Mârayân, and Nambîsan caste.

22. The formalities attending the Sambandham are not the same, but differ materially in North and South Malabar.

The ceremony of Pudamuri, or delivery of cloths, as described above, is not performed in South Malabar; nor is the Sambandham, the name by which the ceremony is known in South Malabar, celebrated with such pomp and formality as in North Malabar.

In South Malabar the custom till some 10 or 15 years ago was for the man, accompanied by 3 or 4 of his friends and servants, to go to the bride's house, on the night of the appointed day, generally after taking their dinner; and without any ceremony or formality of any kind, the bride would be simply taken to the room in which the bride-groom sleeps. The friends who had accompanied the bride-groom, generally used to leave the house at night. The bride-groom would also leave the house before day-break.

In recent times the Sambandham is performed with greater publicity; the bride-groom is followed to the bride's house by a large number of men, from 10 to 50 or more; a feast is also prepared at the bride's house, at which all, or the great majority, of the friends and relatives of the bride's family would also be present. The bride-groom and his party take their food at the bride's house, and gifts or presents of money are made to the Brahmans present.

In South Malabar the wife is, as a rule, never taken to the husband's house; she lives in her own house where the husband visits her every night, or generally at intervals of a few days. The husband invariably gives to the wife the cloths and oil required for her use. He also defrays the expenses of her accouchement and makes half yearly presents of money to her on the festivals of Onam, Vishu and Tiruvâtira. It is customary to make a money present for Vishu, a present of new cloths for Onam; and of plantains for Tiruvâtira. It was till lately, and is even now in some places, the custom to regard the Sambandham as terminated if a husband omitted to send the usual presents on the days of feast above named. Though the custom is

strictly observed even in these days, the tendency to attach such extreme consequences to its breach is, owing to the progress of refined ideas and a better understanding of the marital relations, fast disappearing.

The formalities are the same throughout North Malabar, with the differences above referred to. In some parts of Tellicherry, it is not customary among Nayars to give money with the cloths, simple cloths being delivered into the hands of the bride.

The formalities are generally the same in South Malabar. In some parts, *viz.* in Calicut and some of the other Taluks, it is customary for the husband to leave a small sum of money underneath the bed on which he sleeps. Among Nayars in Vatakumpuram and Kizhakumpuram in the Calicut Taluk, the Sambandham is performed with greater formality. Some quantity of betel leaves, as in North Malabar is taken to the bride's house for distribution among the people assembled there, and the money would be delivered publicly to the Kâranavan, or some other member of the house.

Among the members of the Urâli class in the same places, it is customary to carry some new cloths, in addition to the betel leaves, to the bride's house as in North Malabar; but the bundle of cloths would be delivered to the female relatives of the bride.

In Palghaut, the marriage, which is known by the name of 'Kida-kora' or 'Kidaka Kalyânam' has always been celebrated with due publicity, almost in the same manner as in North Malabar. But there is no delivery of cloths, or any such formalities. The marriage here is not completed on the first day, and a ceremony called second 'Kidaka' is performed, in 3 or 4 days after the celebration of the 'Kidaka Kalyânam' at which the husband, with 3 or 4 followers, go to the bride's house and stay there for the night. After the ceremony 4 or 5 women are sent by the husband to formally take the bride to his house. She afterwards returns to her own house. Unless this ceremony is gone through, the wife is not entitled to visit the family of the husband.

23. No. The practice of a woman forming Sambandham with more than one man at the same time, has never been heard of, or known to exist in North Malabar. The form of marriage known by the name 'Vidâram Kayaruka' or 'Uvam Porukka', which is even now, though not generally, practiced by the Nâyars of North Malabar, do not seem to furnish any traces of polyandry. The word 'Uvam-Porukka' seems to be a corrupt form of 'Puyyan-Porukka', which means the visit of a husband, and does not appear to have any connexion with 'Uzham' or 'turn,' which might probably indicate the visit of a number of husbands by turns.

This is not exactly an independent form of marriage, but only a preliminary to marriage proper, which entitles a woman to cohabit with her husband in her own house. The marriage is invariably performed afterwards, before or during pregnancy, with all formalities, and the woman is then taken to the husband's house, as one who has acquired the status of a full-blown wife. This form of marriage was evidently introduced for reasons of convenience, as it created the relation of husband and wife, without recourse to the costly ceremony of 'Pudamuri'; and it is now generally resorted to by the poor members of the community, and well-to-do men who are desirous of having a second or a third wife.

Polyandry seems to have been largely prevalent in its worst form in South Malabar in the earliest times. Instances in which a woman had so many as 27 and 22 husbands, who visited her by rotation, are even now mentioned by some old men. Four to twelve men were in those days regarded as the ordinary compliment of a woman's sambandhakars. The practice had its origin in considerations of economy on the part of the men, and improved and greater chances of gain on the part of the women.

It is even now the custom among the 'Kammâlars', or the artisan class in the South Malabar (Carpenter, Goldsmith, Blacksmith), who follow Makkathâyam, more especially among them in Nedunganâd, for 5 or 6 brothers to have a woman as the common wife of all of them. Here again economy is the prevailing motive. As the brothers quarrel or disagree among themselves, or as they grow rich, one or more of them sometimes separate by taking a new wife. I have personally known of a carpenter woman in Calicut, named Nangili, who was the wife of five brothers. They were living in two or three houses, and the woman used to spend a month with each of the brothers, who were living separately.

Even among Nayars the practice of polyandry prevailed in Nedunganâd Taluk and in some parts of Choughat till some 15 or 20 years ago. Owing to the influence English education and the spread of enlightened ideas, it has almost ceased to exist; but there are still to be found several families in Kavalapâra, and in the southern parts of Chowghat, where a woman has more than one husband.

There are strong reasons to believe that the introduction and the general prevalence of polyandry in South Malabar was due to the influence of the Nambûdiri Brahmans, whose sexual propensities are proverbial, and who in that part of the country form a powerful aristocracy owning the greater part of the landed property there. The Nayars were and are, with few exceptions, their tenants, and were and are, even now, to a very great extent, absolutely at their mercy. The custom among Nambûdiris which compelled all the junior members of their families to consort with Nayar women necessarily brought about a system of universal concubinage, and polyandry was its natural off-shoot.

It appears from the official account lately prepared of the Nambûdiri families in North and South Malabar, that while there are only 170 families in North Malabar, there are 838 families in South Malabar (vide page 119. vol. I, of Mr. Logan's Manual of the Malabar District). This circumstance, coupled with the fact that there are not more than 3 or 4 Nambûdiri families in North Malabar, who own any considerable landed property, furnishes the key for the proper interpretation of the state of things in South Malabar.

A recent instance, which was related to me by a Nayar Vakil of my court would be an illustration in point. A young Nayar girl of about 12 years of age, named * * * * living in * * * * in Walluvanad Taluk, about 6 miles from the Vakil's house in Cherpulsherry, was married some two years ago by a Nair named * * * * who is now about 30 years of age. A young Nambûdiri of * * * * in the neighbourhood, who was the Janmi (Landlord) of the girl's family, insisted upon being admitted as a co-husband of the girl, who is now 14 years old. The old husband naturally enough objected to the proposal, but the Nambûdiri, who is 20 years of age, was inexorable; and the Nayar husband had eventually to consent to accept the position of subordinate co-husband of his former, full wife, which he now fills, with what feelings it may be better imagined than described.

24. The practice is prohibited by enlightened public opinion, and also by the Code of Manu (V. 162. Chap. 5) “നാസ്ത്യാപ്തനാ പ്രജാസ്രീഹ നമാപ്യന്ത്യ പരിഗ്രഹേ. ന ചിതീയശ്ച സാധവീനാം കചിദ്ഭിരന്താ പ ഭിശ്വതേ”.

“Issue begotten on a woman by any other than a husband, is no progeny of hers; no more than a child begotten on the wife of another man, belongs to the begetter: nor is a second husband allowed in any sâstra to a virtuous woman.”

25. Yes. She can do so.

26. No formality is necessary to dissolve the connection, except among the castes of Tiyans, and some of the castes below them.

Among these castes, dissolution of marriage cannot be effected by merely sending away the wife to her house, as is done by the higher castes. The Natukâran (or the middle-man) and the Kâranavan, or the father of the husband, accompanied by a few of the neighbours, go to the woman's house for the purpose of effecting the dissolution, which is known by the name of ‘ആചാരം കൊടുക്ക.’ (discharge the custom.) Any money dealings which might exist between the families of the parties, including the return of jewels given to the wife and all money presents made by either family on auspicious occasions, are first ascertained and settled, this process being called by the name of ‘കയ്യും കണക്കും നൊക്കുക’ (look into hand (transactions) and accounts). Sometimes if the dissolution was due to the fault of the woman, or in consequence of her refusal to return to her husband's house, the money received as Kânam on the occasion of marriage is returned to the husband. After the customary divorce has been effected in this formal manner, but not before, the woman is at liberty to take another husband. Until this formality has been complied with, no man could marry the woman.

27. Yes; according to the custom now obtaining both in North and South Malabar. The practice is, however, falling into disuse, in consequence of the general disapprobation with which it is now-a-days regarded. Respectable families now invariably refuse to give a girl in marriage to a man who is known to have another wife

28. There is nothing to prevent one, who may be so disposed, from having a plurality of wives.

29. In North Malabar in the house of the husband, and in South Malabar in her own house.

30. In South Malabar, the Rajahs, Chieftains and Nambûdiris of high position, the Government officials and Vakils invariably take their wives to their place of residence. But this is a deflection, arising from the necessities of the situation. The custom is thus different in North and South Malabar; and this difference, as might be expected, is not without its due share in bringing about the low standard of female morality which prevails in South Malabar.

31. In North Malabar the man is, according to the recognized custom, bound to support the woman and her children, during the subsistence of the marriage; but in South Malabar, the man is simply regarded as being under the obligation to supply them with cloths and oil.

32. In North Malabar, the general custom is to live as man and wife, until death, or the dissolution of the marriage, which takes place rarely, and generally for good reasons. There are, however, now and then to be found instances of unprin-

cipld men abandoning their wives, with a large number of children, without any sufficient reasons, known to the outside world.

In South Malabar the tie of Sambandham is generally loose ; and, in the generality of cases, resembles a state of concubinage. The fathers therefore, seldom have any real love or regard for their children, and their affection and sympathies are generally centred in the members of their own family, consisting of their sisters and nephews. In such a degraded view of the matrimonial relation, the Sambandham is necessarily frequently changed ; but the position of affairs has of late undergone a marked improvement.

33. Yes ; he does feed and clothe them, as above remarked ; and the practice in such cases in South Malabar, is the same as in North Malabar.

34. No separate allowance of money or paddy is made, even in cases where Anandravans work for the Tarawâd ; but in such cases, and in the cases of the comparatively few families in which the relations between the Kâranavans and the Anandravans are cordial, they get in addition to food, the cloths and oil required for themselves and their wives.

Anandravans rarely cultivate Tarawâd lands for rent. It is done only when they live separately from the Tarawâd, and have no other means of supporting themselves. In such cases they are, like other tenants, at liberty to use the surplus as they like.

35. Anandravans generally do not work for their Tarawâd, for the simple reason that the Kâranavan would not give them any allowance beyond food, oil and cloths, which every Anandravan is entitled to get from the Tarawâd, whether he works for it or not. They try to earn something for themselves, when they can find any honorable means of earning something, which unfortunately is but seldom available to them, in the present state of the society. The members of well-to-do Tarawâds invariably shun manual labour as beneath their dignity ; and as they are not brought up to any trade or profession, they generally lead a most idle, useless, and miserable existence.

The lower and some of the middle classes earn something as clerks of Vakils, or as writers, or accountants of Mâpilla dealers, and as agents of Rajahs, wealthy Nâyars, and Mâpillas ; but the members of the wealthy families are absolutely without any means of earning anything for themselves.

36. They support their wives and children with their earnings, and give no part of them to their Kâranavan.

37. The practice of making some provision for the wife and children of the Kâranavan of the Tarawâd by the gift of some immoveable properties, consisting of paddy lands and Parambas, according to the position and means of the family, generally prevailed among the Nâyars in North Malabar ; and this was known by the name of 'Puthrâvakâsam' or 'right of children'. Though Puthrâvakâsam was and has always been a gift pure and simple, its universal prevalence in olden times, made it to be regarded as a right inherent in the children, which accounts for the name. The children are not therefore entitled to any definite share in the Tarawâd property.

As recent decisions have rendered the junction of all the members of a Tarawâd necessary to validate the alienations of Tarawâd property, and as it is, in the present state of the strained relations between the Kâranavan and the Anandravans,

practically impossible to obtain the consent of all the Anandravans to a gift of property to the children of the Kâranavan, it may be said that this good old custom has, within the last 10 or 12 years, received its *coup de grace*.

The custom is also observed by such of the Tiyan families of North Malabar as have, in recent times, become possessed of landed properties; but as Tiyan families possessed of landed properties were rare in old times, the custom is necessarily of recent growth among them.

There is no practice resembling it in South Malabar, where the name 'Puthrâvakâsam' is unknown. It may be here remarked that in North Malabar, all gifts of self-acquired property, made by a father to his children, are still generally designated by the old name of 'Puthrâvakâsam' the word 'dânam' (gift) being a recent introduction by English-educated men.

38. A permissive marriage law for Nâyars is in my opinion a matter of absolute necessity. They present the unique spectacle of a civilised community without a legally valid marriage; and, if the institution of marriage is, by the verdict of mankind, held to be indispensable for the maintenance of civil society, it is incomprehensible how there can be difference of opinion among rational men as to the *raison d'être* of at least a permissive marriage law among any class of human beings. Those who oppose the measure from self regarding motives are painfully alive to the force of this argument; and therefore, try to escape from it by attempting to invest the skeleton of marriage existing among the Nâyars with legal flesh and blood. This is, to say the least, a piteous attempt at self deception; as no one, really acquainted with the marriage systems of the Marumakkathâyam Hindus of Malabar, can for a moment honestly assert that the marriage tie creates any jural relation. The husband is not legally bound to maintain the wife and children; conjugal cohabitation is dependent on the sweet will of either party; inheritance follows not; and there is no obligation to chastity, for it is admitted that if a woman commits adultery with a member of the same caste, she is not excommunicated. In view of these stern facts the highest tribunal in the land has repeatedly and systematically characterized the sexual relation existing among the Nâyars as one of concubinage; but the advocates of the existing order of things would nevertheless maintain that their own view of the matter is of supreme importance. They are indeed constrained to admit that something is rotten in the state of Denmark; and the more reasonable of the opponents have therefore felt themselves compelled to give their assent to a qualified marriage law which invests marriage with all its obligations and none of its rights. They say that "you may legalize the marriage for the purpose of compelling a woman to cohabit with a husband whom she hates; of preventing her from taking a more acceptable husband; and of restraining her liberties to any extent, provided she and her children get no part of her husband's property." The absurdity of this position is so patent that it needs only to be stated.

It cannot be denied that the present marriage law, or custom, does not render adultery, or enticing any one's wife, punishable; that husbands, who dotingly love their better halves, are, therefore sometimes relieved of them by unscrupulous men; that cases are not infrequent of women with a large number of helpless children being abandoned by their unfeeling husbands, without making any provision for their maintenance; and that the law affords no protection in such cases. In what way, other than by a marriage law, can this state of things, which I take the liberty to presume that no opponent of the measure will maintain to be desirable, be remedied?

If public good ought to be the object of the legislator and general utility the foundation of his reasonings, I fail to see how, in these circumstances, the proposed marriage law can be impugned. That a law conformable to utility may happen to be opposed to public opinion is no reason against its introduction; and time alone can remove the ignorance and prejudice which surround every innovation.

Those who oppose the proposed enactment do not go to the extent of asserting that no marriage law is required for the Malayalis; but merely try to make out that they have already a marriage custom which is legally valid, and that a law is therefore superfluous. It may be true that they have forms of marriage which are regarded by the community as perfectly valid and sufficient for all practical purposes; but it is equally true that those forms of marriages have not been recognised by the state as legally valid, or as possessing the usual legal incidents of a valid marriage. This circumstance, however unpleasant, cannot be denied by any one; and the question, therefore, arises whether it is not better and expedient once for all to remove all doubts and difficulties by legalizing the marriages of all Marumakkathâyam Hindus? As a compulsory law on such a subject, cannot, for obvious reasons, be thought of, the only alternative is by providing an enabling marriage law of the kind proposed. As an infraction of liberty, every law must be distasteful in its nature; and it is not surprising that a law whose professed object is to restrain license, masked under the name of liberty, must be regarded as a positive evil by a large section of the community. The legislator has, therefore, only the choice of evils, as it is a fundamental principal of legislation that he has only to see that the evils which he undertakes to prevent are greater than those which he employs to prevent them. The evil in question is undeniably of portentous dimensions, as affecting a whole civilized community and is, besides, permanent in its character.

It has been, therefore, laid down by the highest legislators that antiquity, which is triumphantly held out as the main reason against the measure by its opponents, is no reason at all. It has been well said by a great authority that the rejection of innovation means the rejection of progress, and that it is impossible to imagine a body of positive law equally fitted for all times and circumstances. However suitable the marriage customs of Marumakkathâyam Hindus may have been found in a primitive state of society, they are certainly not fitted for the requirements of modern society, and should therefore be, by judicious remodelling, adapted to the progressive spirit and tendencies of the times. Since the dawn of civilization there has been no other enlightened community among whom inheritance is divorced from marriage, and no reason can be found for the further preservation of this relic of barbarism.

The first and principal reason urged against what is called a change of inheritance which the proposed marriage law is said to bring about, is the preservation of property which the Tarawâd system favors. This assertion is erroneous both in theory and practice. As observed by Bentham, "there is no arrangement more contrary to the principle of utility than community of goods; especially that kind of indeterminate community where the whole belongs to each of the partners. 1st. It is the source of never-ending discord. Instead of being a state of satisfaction and enjoyment for all interested, it is a state of discontent and disappointment. 2nd. This undivided property always loses a great part of its value for all the partners. Subject on the one hand to all kinds of depredations, because it is not under the protection of individual interest, on the other it receives no repairs or improvements.

Shall I risk an expense of which the burden will be certain, and which will entirely fall upon me while the benefit of it will be precarious and divided?"

I need hardly say that these words of the great philosopher exactly represent the state of a modern Marumakkathâyam Tarawâd. Many a wealthy Tarawâd has been totally wrecked by the incompetence and extravagant mismanagement of Karanavans, who were till lately the autocrats of the family, possessing absolute powers of alienation, and the apathy and powerlessness of the junior members. Even in recent times when the courts began to afford protection by the removal of Karanavans and the curtailment of their powers of alienation, it is well known that the junior members never interfered to prevent the destructive career of the Karanavans, until a very late stage, when the greater part of the property had been dissipated. The absence of individual interests of any tangible kind naturally prevented, even where the junior members had the means, the incurring of expenditure of which the burden was certain, while the benefit was precarious and divided.

I may state without exaggeration that scores of wealthy families in North Malabar have been reduced to poverty, owing to the extravagance and dissipation of Karanavans, and the apathy of the junior members, and that there are not now more than half-a-dozen wealthy Tarawâds which yet retain their ancient possessions; but even in these families the irrepressible causes of disintegration are slowly but surely beginning to work their way; and it is not too much to say that it is merely a question of time how long they will be able to withstand the destructive influences at work.

In the early state of society when the Nâyars were engaged in the profession of arms, they did not lead a settled life, and were not fathers of families living with them, as they are now. If they formed any fugitive connexions their affections were not centred in their children, who remained in their Tarawâds under the protection of the Karanavans. The Marumakkathâyam system was admirably suited for such a state of society; but the condition of things has changed. Every member of a Marumakkathâyam family, as a rule, now marries and lives with his wife and children, either in the Tarawâd house or apart from it, and therefore naturally comes to regard them as constituting his own family, instead of his brothers and sisters for whom he has no affection or sympathy to spare. In a favourable ground the law of nature takes root and flourishes, displacing the artificial and unnatural system of Marumakkathâyam. The junior members, who are like the Karanavans, human beings, subject to the natural sympathies and antipathies of the race, perceive the folly of expecting the Karanavans to extinguish their feelings of love for their wife and children and to ignore their claims upon their protection; and at last come to regard the Karanavan's neglect of the interest of other's children, and the aggrandizement of his own children, with callous indifference and philosophic resignation, eagerly awaiting the arrival of the time when it will be their turn to enrich their wives and children at the expense of the Tarawâd. In a Tarawâd system like this, there is certainly no love lost between the Karanavan and the Anandravans (junior members); and the gradual destruction of Tarawâd property is the inevitable result of such a state of eternal discord, and natural distrust. The assertion that the Tarawâd system conduces to the preservation of property is therefore no longer true, and is now a mere fiction.

On the other hand, no one can deny the multiplication of wealthy families which individual industry calls into existence out of the division of property belong-

ing to a single family in the other Districts ; though no doubt there may be cases in which imprudent members destroy their portion. This is a necessary evil attaching to the possession of property, and can form no argument against the possession of separate property. If the proposed law is impeached on the ground that it is calculated gradually to work a change of inheritance, it is on that ground all the more necessary, and the sooner the thin end of the wedge is introduced, the better it would be for the community. A close observer of the state of Malabar society cannot fail to see that the Marumakkathâyam system is doomed, and that the work of destruction is only a question of time.

It is universally admitted that the invariable practice of the country is to give a share, by no means insignificant, of one's self-acquisition to the wife and children. Why not then enact a law declaring them entitled to a definite portion of it in case of intestacy. It is the policy and the duty of the State to give legislative sanction to what promotes the true good of the community, and there can be no room for hesitation when the object intended has the unqualified approbation of the people.

Another objection which deserves to be noticed is the inconvenience which the existence of two systems of inheritance in one family is said to create. It is an evil which is a necessary concomitant of every measure of reform, which is gradual and permissive in its operation, and not revolutionary and compulsory. It is preposterous in the extreme to say that there ought to be no partial cure, which would gradually eradicate the disease, but that the remedy should be thorough and instantaneous, even at the risk of endangering life, or that there should be none at all. This is the logic of those who assert that if a change of inheritance is to be affected at all, it must be a sweeping and thorough paced one, amounting to a wholesale introduction of Makkathâyam, or rule of sons, or there should be no change at all. The fallacy of such an argument is self-evident. Are we to leave a great and besetting danger totally unprovided for, because of the slight inconvenience which might be experienced in the working of the means employed to eradicate it. Even the inconvenience is more imaginary than real. When the law of succession as to self-acquisition, which any particular member or members follow is definitely known and ascertained, there can really be no inconvenience or difficulty in applying the law to the particular cases. There can be no more inconvenience than in the existence side by side in a particular locality of various unconnected and independent families governed by different rules of succession. It is utopian to think of assimilating the rules of succession governing such families, for the sake of uniformity, or convenience of those who may have to administer the law ; and the argument on the ground of inconvenience therefore seems to me to be wanting in force. The objection that a Nâyâr who openly declares his love for the cause of sound morality or, as the opponents would say, for his wife and children by availing himself of the provisions of the proposed law, is not fitted to be the Karanavan of a Marumakkathâyam Tarawâd, is another instance of false logic ; for surely a man who has the courage of his conviction is by far a better manager of common property than a man who, under cover of an assumed sympathy for family custom, works his designs in the dark and sucks the life-blood of the Tarawâd unsuspected and unperceived.

The assertion that the general feeling of the people is against the proposed legislation is unfounded, as the result of the Commission is expected to prove. The Bill in its present form, containing as it does several unpalatable provisions, *e. g.*, those regarding registration, divorce etc., is certainly not acceptable to the people ; but ex-

cepting a very small section who blame by sentiment, the people in general are in favor of a marriage law divested of its objectionable features. When the matter is clearly explained to them their apathy or prejudice is transformed into a feeling of delight at the prospect of having a marriage law which would deliver them from the difficulties which now beset them at every turn, and secure a sure means of support to their children. Several chieftains and influential men to whom I have explained the objects to be secured by a marriage law, have spontaneously desired me to send their petitions for submission to the Government and the Commission, which they promised to get signed by many hundreds of men. But I have always refrained from taking any part in such matters, being of opinion that such representations should proceed from the people themselves unprompted by persons in authority. As remarked above, the legislator has only to satisfy himself that there are real evils to be remedied, and he is not to be influenced by the bugbear of a popular out-cry conjured up by an interested minority. In the language of Bentham, "Are we to expect the people to possess sound knowledge while it is yet unattained by the legislators, by the wise men of the land."

I do not think it worth while to waste time by mentioning the other objections urged by the opponents of the measure, which are on their face frivolous and unworthy of serious consideration.

Before concluding my remarks on this subject, it may not be out of place briefly to touch upon some of the great disadvantages accruing from the absence of a marriage law. Every Marumakkathâyam Hindu finds himself at present in a very awkward and undesirable position. He is distrusted by his wife and children on the one hand, and by his own sister and her children on the other. The former are perfectly aware that they have no right to participate in his earnings and property, which belong to, and are looked upon as theirs by his sisters and nephews: the latter knowing that his affections are or must be centred in the former mistrust him and cease to have any regard for him, if all his earnings are not scrupulously made over to them from time to time. He is not in truth loved by his own wife and children, who, having no common interest, do not co-operate with him for the common good, but try to get as much out of him as possible by all sorts of arts and blandishments, often supplemented by love drugs. Any disposition to be liberal towards his sister and nephews is regarded by them with jealousy resulting in ill-concealed estrangement, and it is needless to say that this is reciprocated by the sister and her children. The poor man is thus placed in a dilemma from which there is no means of escape. Often he tries to please both: but incurs their displeasure instead. If he favours one or the other exclusively, he often finds himself deserted in his old age, and repentance comes too late. Domestic happiness is in such a state of things a phantom. The shrewd man therefore tries to keep the whole of his property in his own hands; and he is punished by nature for his own narrow-mindedness in the eternal poverty of his children.

The necessity, which every Marumakkathâyam Hindu is, under of supporting two distinct sets of families, consisting of his wife and children, and sisters and nephews, is generally insupportable, and especially so in the absence of any ancestral estate. The misery which every labourer and peon suffers from the intolerable burden of supporting too large families, without the assistance of any Tarawâd property, is a heart-rending sight, and would alone furnish an irrefragable argument in favor of the proposed legislation. If every female member of the Tarawâd, who in consequence of the death or desertion of the husband, now adds to the burden of

the labourer or the peon, were to bring with her a small lease-hold Paramba (garden) or some such property of her husband, or any allowance for maintenance, howsoever small, it would form a substantial nucleus of property for the protection of the family. In the case of wealthy families whose members would invariably be married to rich husbands, the addition to the wealth of the family would be enormous. I mention this circumstance simply to show that those who argue that the marriage law would be the means impoverishing the Tarawád by giving a share of a member's self-acquisition to his wife and children, lose sight of this prolific source of addition to the wealth of a family.

39. I would retain the customary forms of marriage and make registration evidence of its legal recognition. The solemnization of marriage before the Sub-Registrar, when he happens to be a member of a low caste, is opposed to usage and the feelings of the people, and cannot therefore be thought of. The proposed declaration "I (A) take thee (B) to be my lawful wife (or husband)," is also repugnant to the people and cannot therefore be recommended for adoption.

In order to effect registration of marriages I would propose for adoption one of the two following courses:—

(1) The parties or their guardians should sign a paper, in the presence of two witnesses, stating the fact of the marriage; and on receipt of this paper the Sub-Registrar should register the marriage.

(2) A marriage Registrar should be appointed for each village, or group of villages, and such Registrars should be appointed from the principal castes, such as Nâyars and Tiyans &c. Each Registrar should keep a register which he should bring with him to the place of the marriage and the fact of the marriage should be entered in it, the signatures of the parties or their guardians being taken. He is to receive a fee of say Rs. 2 for each marriage; and the Sub-Registrar should register the marriage on receipt of an extract from his Register.

40 & 41 (1) Bigamy is now practiced, though rarely. The prohibition against it is therefore necessary.

(2) The condition that the man must have completed the age of 18 years and the woman age of 14 years is not now observed, and is desirable.

(3) The assent of the legal guardian when the man or woman is below 21 years, is not now an indispensable condition for a valid marriage. It may therefore be made a *sine que non*.

(4) Marriage is not now contracted within prohibited degrees of consanguinity or affinity. Recognized customs of the country and caste in such cases must be respected and upheld.

The 1st proviso would authorize marriages between a high and low caste; e. g. between a Brahman and a Tiyar, or a Nayar and a Mâpilla. Existing customs as to caste should therefore be maintained.

The 2nd proviso would legalize marriages between cognates, which is objectionable, as being opposed to usage. In Malabar, marriages are not permitted between cognates, howsoever remote; and in North Malabar, even between the same 'vamsam's' or tribes, between which there is no community of pollution. The proviso should therefore be so modified as to save the existing customs.

42. Unchastity, incurable disease, and incompatibility of temper, are generally considered to be reasonable grounds for dissolving a Sambandham, or marriage. Among the lower orders a woman is frequently divorced if she is found unwilling or unable to do the necessary house-hold duties. Among them physical fitness to perform the house-hold duties is regarded as an indispensable qualification for the position of a wife.

In practice marriages are now dissolved for no other reason than that the wives are not liked by the husbands; often an old wife is discarded to make room for a new one, who suits the fancy of the husband.

There have also been instances in which a wife who has borne a large number of children and has become a burden to the husband, has been put off as a good riddance.

In this connexion I may mention that the provisions of the proposed law regarding divorce, which make divorce attainable only through a decree of Court on proof of adultery, cruelty, &c., are distasteful to the people, and are opposed to their feelings, habits and traditions. They do not like the idea of being deprived of the freedom which they now possess in this matter, though they feel it necessary that its abuse should be prevented by such restrictions and safe-guards as may be deemed effectual. There is no reason why the English law of divorce, which has not been found the most perfect, should be imported among Marumakkathâyam Hindus, who, in this respect, fortunately find themselves in possession of a law, which it is the tendency of modern civilization to attain, and which has the approbation of the greatest thinkers.

I would again quote Bentham on the subject. He says "Love on the part of the man, love and foresight on the part of the woman; the enlightened prudence and affection of parents,—all conspire to imprint the character of perpetuity on this alliance."

But what shall we think if the woman adds this clause "we shall not be at liberty to separate, though hereafter we come to hate each other as we now love"? Such a condition would seem an act of folly; it has something about it contradictory and absurd which shocks at the first glance. Everybody would agree in regarding such a proviso as rash, and in thinking that humanity requires it to be omitted.

But it is not the woman who asks, it is the man who invokes this absurd and cruel clause; it is the law which imposes it on both as a condition which cannot be avoided. The law comes in between the contractors; it takes them by surprise in the midst of youthful transports in those moments which open all the perspective of happiness; and it says to them "you form this connexion in the hope of enjoyment, but I warn you, you are entering a prison of which the gate will never open. I shall be inexorable to the cries of your grief, and though you wound each other with your chains, I cannot suffer them ever to be loosened." To believe in the perfection of the object beloved, to believe in the eternity of a passion felt and inspired, these are illusions which we may well pardon in two children blinded by love. If there were a law which forbade the taking a partner, a guardian, a companion, except on the condition of always keeping him, what tyranny, what madness it would be called! Yet a husband is a companion, a guardian, a manager, a partner, and more yet; and still, in the greater part of civilized countries, a husband cannot be had except for life.

To live under the perpetual authority of a man you hate, is of itself a state of slavery; but to be compelled to submit to his embraces, is a misfortune too great even for slavery itself. Is it said that the yoke is mutual? That only doubles the misfortune. When death is the only deliverer, what horrible temptation, what crimes may result from a position so fatal!

Divorce except by the decree of courts, is allowed in many civilized countries. In Sweden divorce is allowed for adultery on either side, which amounts to the same thing as permitting it by mutual consent.

Under the Code of Frederic the parties can separate at pleasure, and marry again after a year's desertion.

At Geneva, adultery is a ground of divorce, but it may also take place for mere incompatibility of character. As divorce is proclaimed in all the churches, it is rare; and the proclamation is a sort of public censure always dreaded.

Marriage in France has of late been made dissoluble at the pleasure of the parties.

So a Roman marriage was dissolved by divorce in the lifetime of the parties by the will of both or one of them.

I would therefore propose, as an effective check on capricious divorce, that divorce should take place only after a year's desertion, and that the party who wishes to effect the divorce should send to the other party a written notice setting forth the reasons and circumstances under which the dissolution is sought; and the notice should be signed by two relations of the man or woman, as the case may be. A copy of the notice should also be forwarded to the Sub-Registrar and should remain affixed to the outer wall of his office for the period of a year.

These safe guards, especially the necessity of securing the counter-signature of two of the relations of the parties, and the publicity which would result from the fixing up of the notice in the Sub-Registrar's office would constitute an adequate check upon capricious divorce. There is besides the probability of the parties being reconciled within the long period of a year, through the intervention of friends and relations; and, if no reconciliation takes place within the time, the case is decidedly a fit one for a dissolution of the marital relation.

43. The wives and children of Nayars are now invariably maintained by the husbands during their residence in the husband's house; and they generally live in the house of the husband. During their residence in their own Tarawád the husband only gives them clothes, oil, and some allowance of money for incidental expenses. When the family of the wife happens to be poor, the husband, if he has the means gives his wife and children everything required for their maintenance.

44. I agree in the justice and necessity of all the new rights proposed to be derived from a marriage as described under this question.

45. Sambandham is not customary between the Nâyars in British Malabar and those living in Cochin and Travancore.

(Signed) A. C. KANNAN NAMBIAR,

*District Munsif,
Badagara.*

MARUMAKKATHAYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. T. GOPALAN NAYAR AVARGAL, B. A., B. L.

DEPUTY COLLECTOR,

COIMBATORE.

1. Amongst Nayars and higher castes, a man of a higher division may form Sambandham in a lower division except the last four of the 18 classes of Sudras, viz., Chetty (bazaar man), Châlian (weaver), Veluthêdan (washerman) and Velakkathravan (barber).

2. The same liberty is not generally accorded to a woman but instances are not wanting of such Sambandhams, even though during the Sambandham, the woman would not and could not take meals in her Sambandhakâran's house or tarawâd.

3. Sambandham is not generally formed between divisions of disputed superiority. Sudra and Chârnata each claims to be higher than the other and there being no mutual agreement, no Sambandham generally takes place. The same is the case among Vattêkâdan, Pallichân and Athikurissi also.

4. The formality attached to a Sambandham against customary law is the excommunication of the woman where the difference in degree is very great, for instance a Nayar woman forming Sambandham with a Tiyan. The excommunication in cases of this sort, extends to the prohibition against the woman entering temples, touching tank and wells &c. When the difference in degree is not great, or where the man and woman are both of the fourteen upper classes of Sudras, and the casteman of the woman do not approve of the Sambandham, the woman is boycotted on all festive occasions, that is no one of the caste people would go to her for any ceremony nor would she be invited for any.

5. Such a Sambandham cannot be validated by any Prâyaschitham but the penalty may be avoided by a denial or discontinuance of the Sambandham, and where the caste has a ruler (Raja or Nambudri) he has also to be propitiated.

6. The boundary between North and South Malabar is Korapuzha.

7. Nayars of North Malabar form Sambandham with women in South Malabar but not vice versa.

8. There is no legal prohibition against a Nayar of South Malabar forming Sambandham in North Malabar; but it is not practiced because of the prohibition against North Malabar women crossing the Korapuzha southwards.

9. Women of North Malabar may not cross to the South of Korapuzha.

10. The reason is this; The ruler of the Southern part of North Malabar was Porlâthiri (Raja of Kadathanâd). He was originally King of Calicut but was expelled by the Zamorin and driven northwards. The bitter enmity between the

two Princes led to a mutual prohibition of intercourse; but the native sovereignty has come to an end, the prohibition is dying out, and has died out except in the case of North Malabar women.

11. The first part of the tâlikettu kalliyanam is അഷ്ടമംഗല്യം Ashta Mangalyam. This is a religious ceremony having no real bearing on the Kalyânam itself. The next is the tying of the tâli at the time named or specified by the astrologer (Kanisani). The tâli string is placed round the neck of the girl by the man, and it is actually tied by the girl's mother or other near female relations. The man lives as a bridegroom for the four days the ceremony lasts, except where the man is a higher caste man. The ceremony is an exact representation of marriage and the tâli is the recognized emblem of married life. The girls on whom this operation is to be performed, are taken to the place of performance by the male members of their tarawâd, but those members are not allowed to touch them after the tâli is tied.

12. The man who ties the tâli is a Kshatria Tirumulpâd, a Nedungâdi, a Kiriyaathil Nayar, or an Enangan. Various divisions have various arrangements about the man. The name of the man who ties the tâli is Manâla-pilla (literally bridegroom).

13. The same man ties the tâli round the necks of several girls at the same time and place except when he is an Enangan, in which case a man is required for each girl.

14. The man who ties the tâli does not thereby secure a right to cohabit with the girl. The only explanation, I can find for it is that the original and borrowed signification of the ceremony is lost, and Kalyânam now remains an unmeaning and superfluous formality.

15. There is no prohibition against the man who ties the tâli, afterwards forming Sambandham with the girl.

16. I do not know of any such instances personally, but I have heard that this is practiced.

17. When the man dies, the girl observes pollution if the man belongs to the same caste as herself. Some carry the principle much further for instance the Nambidis of Chowghat perform marriages in pure Hindu form, but the women are afterwards allowed to form Sambandham with Nambidis or Nambudiris. When the man who married the woman dies, the woman observes pollution and is also debarred from wearing jewels afterwards. She becomes a widow except as to shaving the head, but the Sambandham may continue.

18. Tâli, is sometimes tied round the neck of a girl by her mother in the presence of the earthen idol worshipped in every house at *Onam*. This is rarely done now and that only by very poor people.

19. Every girl should undergo the tâlikettu ceremony before reaching the age of puberty. There is nothing but custom to justify the rule.

20. The representatives of both houses (the tarwâds of the boy and girl) meet and consult horoscopes. If a match is agreed on, a day is fixed. The bridegroom having taken the permission of his elders, formally proceeds with a number of followers to the house of the bride so as to reach there after nightfall. They

proceed to the room of the bride and there the leader of the bridegroom's party asks the mother's permission for the bridegroom visiting the bride for six months. The bridegroom and party remain there that night and depart before day break. Another night the bridegroom goes again with a smaller following, and pays the bride a sum of money to secure her consent to the continuance of the visits and leaves the house before day-break. Then the woman of the bridegrooms' house go to the bride's and take her to his house on an auspicious day and the Sambandham continues.

21. Where the bridegroom is a Nambudiri or a Pattar, the consultation of horoscopes, is dropped. Suitability as judged thereby is made to give way to expediency.

22. In North Malabar, the chief ceremony is the gift of cloths, but that is not generally done in South Malabar on the first night. I understand that in parts of South Malabar, other than Palghat, the reference to the six months' term is dropped. If so I believe it is only due to the march of education.

23. There is no prohibition against a woman having Sambandham with more than one man at the same time; but except in parts of Walluvanad Taluk and of the Native States, I do not think it is now practiced.

24. There is no prohibition as stated in the answer to question 23.

25. A woman may terminate a Sambandham when she pleases.

26. I have heard that formerly a woman had to return the money she received on the 2nd night, (vide answer to Question 20) before she could dissolve the connection, but even that formality has now disappeared.

27 & 28. A man may have Sambandham in more houses than one at the same time, and there is nothing to prevent him from doing it.

29. During Sambandham the woman usually lives in her own tarawâd and the Sambandhakkâran visits her there, except on festive occasions, when she has to go to the Sambandhakkâran's house (if allowable). The official classes are forced to violate the rule and those instances are becoming large.

30. I understand that a woman usually lives with her Sambandhakkâran in North Malabar.

31. The only liability of a Sambandhakkâran is to give the woman അപ്പാലപ്പം bare maintenance, or എണ്ണയും തുണിയും oil and cloth. The woman and her children are fed by their tarawâd and they get the extras such as oil, clothes from the Sambandhakkâran who has also to pay for the woman's confinement. It is doubtful if the courts would recognize even this.

32. Among the educated classes permanency of Sambandham is becoming the rule and among Nambudiris &c., the rule is the other way.

33. Sambandhakkâran feeds and cloths his wife and children when they live with him.

34. When Anandravars work for the tarawâd the Kâranavan does not grant them any allowance on that account. They often cultivate tarawâd lands for rent and the surplus is the self-acquisition of the Anandravan who makes it.

35. Some Anandravars work for the tarawâd (rare) and some for themselves.

36. The earnings are not handed over to the Kâranavan but the acquirer maintains his wife and children and also maintains his own Tâvazhi (താവഴി).

37. Property is given in Putrâvakâsam in North Malabar, and the woman and her descendants take the property jointly so as to form a separate tarawâd with respect to that property. There is nothing analogous in South Malabar.

38. I see no objection to a permissive marriage law being provided for Nayers, except two that I have lately heard. (1) The Nambudiris, and other aristocrats, who do not like to have any obstacle put in the way of the exercise of their unbounded license. (2) The permissive law may very soon ripen into a power in the land so that the people who do not follow it may be ashamed of themselves, and yet may not care to change the old custom. Both these are, I think, dog-in-the-manger objections.

39. So far as the form of marriage is concerned, I do not think any change is necessary. What is wanted is reliable evidence of the fact of marriage. Registration may be made compulsory to provide the best evidence possible. I do not see the fun of constituting the Sub-Registrar our marriage High Priest.

40. (1) This is new and not a part of the existing system, but the provision is necessary.

(2) There is no limitation of age now either way. Hence the provision is new.

(3) Now the rule is that Sambandham should be with the consent of the heads of both Tarawâds, either previously obtained or subsequently ratified. This provision to my reading makes the previous consent a *sine qua non* for the validity of the marriage.

(4) The condition does not differ from the existing system but the provisos do. The first proviso is a well devised attempt to do away with the existing difficulties of the inter-divisional marriages. I am entirely in favour of this proviso. The second proviso is a limitation upon the existing disqualifications. Now two members of a Tarawâd cannot intermarry however remote their consanguinity or affinity is.

41. I have no additions to make to the above conditions but would suggest the following alterations. In (2) the marriageable age of the girl may be put down at 12 instead of at 14 (Scotch act). Girls very often attain full maturity when they are 12 or 13 years old. In (3) the age of 21 may be altered to the age of majority as prescribed by the Indian majority act. In (4) I would omit proviso 2 altogether for I do not think the time has come to split-up our Tarawâds to such an extent as to let a member of a branch marrying in another branch of the same Tarawâd.

42. Adultery by the wife is the chief ground of a dissolution of Sambandham. Inequality of temper now suffices, or the inclination of either party to dissolve.

43. When a woman and her children live with the Sambandhakkâran of course they are maintained by him if he has funds of his own; or if not, if it pleases the Kâranavan to give the Anandaravar funds therefor. The woman and children cannot under existing law claim their maintenance from their Kâranavan either, for they live away from the Tarawâd house.

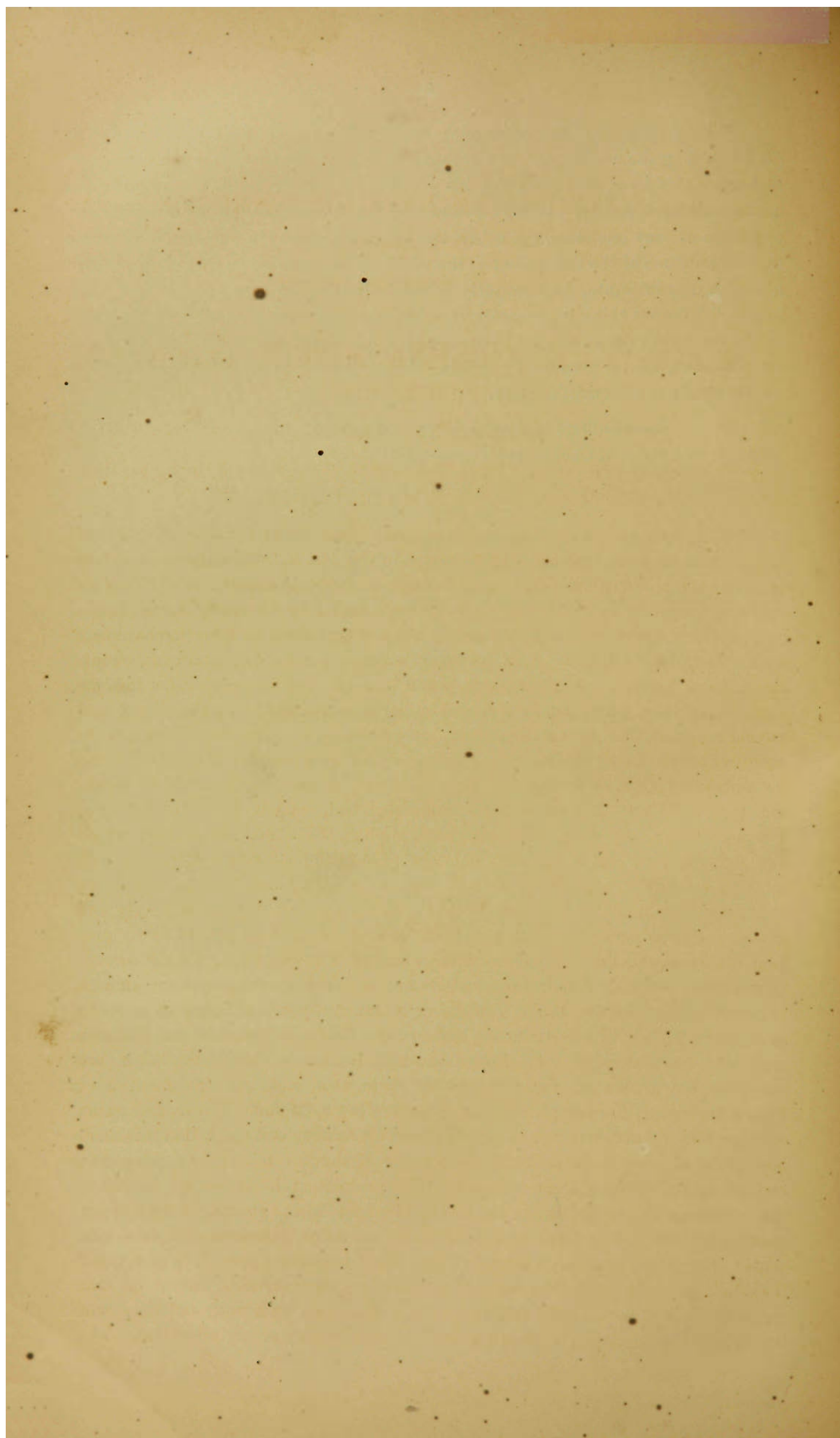
44. I approve of the principles contained in (a) (b) (c) (e) and (f) but in (d) I would make a change. My proposal is this. "Where a man who has married under this form, dies intestate, his property should be divided, $\frac{1}{3}$ going to his wife and children jointly, $\frac{1}{3}$ to his tarawâd, and $\frac{1}{3}$ to his mother and her descendants; on failure of any one class, the other two to take property in moieties, and where there is only one of the three classes; the whole property to go to that class. Where a woman dies intestate, her property should devolve on her children in equal shares." I do not think it necessary that the husband should be allowed any share in the property of his deceased wife, nor is it necessary to consider the claims of the Tarawâd, for my reasons for making the suggestion as to divisions of property do not apply to a woman's estate.

45. Sambandham is allowable, and customary, between Nayars of British Malabar and those of Cochin and Travancore.

T. GOPALAN NAIR.

Deputy Collector

Coimbatore.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. K. R. KRISHNA MENON, AVARGAL,
RETIRED SUB-JUDGE,
WALLUVANAD TALUK.

1. Amongst Nayars and other high caste people, a man of the higher division can have Sambandham with a woman of a lower division.

2, 3, 4 and 5. According to the original institutes of Malabar, Nayars are divided into 18 sects, between whom, except in the last 2, intermarriage was permissible; and this custom is still found to exist, to a certain extent, both in Travancore and Cochin. This rule has however been varied by custom in British Malabar, in which a woman of a higher sect is not now permitted to form Sambandham with a man of a lower one. This however will not justify her total excommunication from her caste in a religious point of view, but will subject her to some social disabilities, which can be removed by her abandoning the sambandham, and paying a certain fine to the Enangans, or caste-people. The disabilities are the non-invitation of her to feasts and other social gatherings. But she cannot be prevented from entering the pagoda, from bathing in the tank, or touching the well &c. A Sambandham originally bad, cannot be validated by a Prâyaschitham. In fact, Prâyaschitham implies the expiation of sin, which can be incurred only by the violation of a religious rule. Here the rule violated is purely a social one, and not a religious one, and consequently Prâyaschitham is altogether out of the place. The restriction is purely the creature of class pride, and this has been carried to such an extent as to prevent the Sambandham of a woman with a man of her own class, among certain aristocratic families. For instance, a lady of the Zamorin's family is not allowed to consort with a man of Erâdi, Vellôdi, or Nedungâdi sect, although he is of the same sect with her. In like manner, amongst the Kiriya, Pallichân and Chârnnâ sects who have attained some Edaprabhu-ship (middle lordship), the ladies are not permitted to consort even with men of their own sect. In the families of Pozhavâyi Nayar, Kavalappâra Nayar, Kôngât Nayar, Mannûr Nayar and those of other Edaprabhus, this rule is strictly observed, as they still think that it is more honorable to allow their ladies to be kept by Brahmans than being allowed to consort with the men of their own sect. This prohibition is somewhat similar to that obtaining among the Brahmans on the other side of the ghauts, where it is not customary for a man of Oadama sect to marry an Ashta Sahasrom girl, and vice versa. But when a marriage actually takes place between them, I do not think that the Law will go to the length of declaring the marriage invalid on that ground. It is true that the relatives will at first kick up a row, but they will become gradually cooled, especially when the married parties are influential.

6. Kôra river, which is styled "Ghâra" in Sanskrit, is the recognised boundary between North and South Malabar for caste purposes.

7 and 8. Nayars of North Malabar, usually consort with women of South Malabar. There are few instances of the Nayars of South Malabar consorting with women of North Malabar. For instance, the late Kârapally Sekhara Kurup, who was a native of South Malabar, married a lady of Palliyil house in North Malabar; and one Eroman Nayar, late Deputy Jailor and a native of South Malabar, married the daughter of the late Nazir of the Sub Court, Tellicherry, who is a native of North Malabar. I have heard 2 or 3 other instances also. The women of North Malabar are, as a rule, uneducated, and the men even in well-to-do families allow their women to work in the field, and in personal attractiveness and in refined manners, they are far inferior to their sisters in South Malabar, and they cannot cross the Kôra river. These circumstances account for the fewness of such instances. Mutual intercourse between them is expressly permitted by the following text in Kêrala Mâhâtmyam, viz:—*Translation of Slôka*—(The sons of Dêva and Gantharwa women may have mutual intercourse with the daughters of Gantharwa and Dêva females respectively, and vice versâ in the country of Kêrala). In this passage, the sons of Dêva females are the Nayars of South Malabar, and the daughters of the Gantharwa females are the women of North Malabar, because according to this Mâhâtmyam, the country between Cape Comorin and Ghôra river was colonised by the descendants of a Dêva female and those of her six handmaids, and the country between the Ghôra river and Paysasini river in Kizhoor, at Kâsar-god, by the descendants of a Gantharwa female and those of her six handmaids, and the country between Payassini river and Ghôkarnam in North Canara, by the descendants of an Asura female and those of her six handmaids.

9 and 10. There is no caste or religious prohibition for a woman of North Malabar crossing the Kôrapuzha river; but tradition says that a political reason existed for the prohibition. When the Chirakkal Raja and the Zamorin were at war, certain ladies of North Malabar who came to the Zamorin's territory were ravished by certain Mapilla subjects of the latter, and the Chirakkal Raja then ruled that no female of his kingdom should come over to the Zamorin's territory. This appears to be the sole reason of the existing prohibition. As the reason of the rule has ceased, the rule also ought to cease.

11 and 12. Tâli-kettu Kalyânânam is not a marriage in any sense of the word as understood by the civilized world. The principle object of a marriage is sexual intercourse, and this idea never enters into the heads of either man or woman who goes through this ceremony. This is somewhat analogous to what a Dêvadâsi (dancing girl attached to pagodas) of other countries undergoes before she begins her profession. Among Royal families and those of certain Edaprabhus a Kshathriya, and among the Chârna sect, a Nedungadi, is invited to the girl's house at an auspicious hour appointed for the purpose, and in the presence of friends and castemen ties tâli around her neck, and goes away after receiving certain fee for his trouble. Among the other sects, the horoscope of the girl is examined along with those of the boys of her Enangan (a reconciled member of one's own clan) families, and the boy whose horoscope is found to agree with hers is marked out as a fit person to tie the tâli, and a day is fixed for the tâli-tying ceremony by the astrologer and information given to the Kâranavan of the boy's family. On the appointed day the boy is invited to a house near that of the girl where he is fed with his friends by the head of the girl's family. This feast is called "Ayani Ûnu" and the boy is henceforth called "Manavâlan" or "Pillai." From the house in which the Manavâlan is entertained a procession is formed

preceded by men with sword and shield shouting a kind of war-cry. In the meantime a procession starts from the girl's house, with similar men and cries, and headed by a member of her Tarawâd, to meet the other procession and after meeting the Manavâlan he escorts him to the girl's house. After entering the Pandal erected for the purpose, he is conducted to a seat of honor and there his feet are washed by the brother of the girl, who receives a pair of cloths on the occasion. The Manavâlan is then taken to the centre of the Pandal, where bamboo-mats, carpets and white cloths are spread, and seated there. The brother of the girl then carries her from inside the house, and after going round the Pandal three times, places her at the left side of the Manavâlan, and the father of the girl then presents new cloth tied in a Kambli to the pair, and with this new cloth (technically called "Manthravadi") they change their dress. The wife of the Kâranavan of the girls Tarawâd, if she be of the same caste, then decorates the girl by putting anklets &c. The "Purohit" called "Elayath" (a low class of Brahmans) then gives the tâli to the Manavâlan and the family astrologer shouts "Muhoortham" (auspicious hour) and the Manavâlan, putting his sword on his lap, ties tâli around the girl's neck, who is then required to hold an arrow and a looking-glass in her hand. In rich families, a Brahmini sings certain songs intended to bless the couple. In ordinary families who cannot procure her presence, a certain Nayar who is versed in song performs the office. The boy and the girl are then carried by Enangans to a decorated apartment in the inner part of the house, where they are required to remain under a sort of pollution for three days. On the 4th day they bathe in some neighbouring tank or river, holding each others hands. After changing clothes they come home preceded by a procession, which varies in importance according to the wealth of the girls family-Tom-toms and elephants usually form part of the procession, and saffron water is sprinkled. When they come home the doors of the house are shut which the Manavâlan is required to force open. He then enters the house and takes his seat in the northern wing thereof. The aunt and other female friends of the girl then approach and give sweet-meats to the couple. The girl then serves food to the boy, and after taking their meals together from the same leaf they proceed to the Pandal, where a cloth is severed into two parts and each part given to the Manavâlan and girl respectively in the presence of Enangans and other friends. The severing of the cloth is supposed to constitute a divorce.

13. As already said, amongst Rajas, Edaprabhus, and Chârnna sect, one and the same man ties tâli on a number of girls, and it seems throughout the whole of North Malabar the same custom prevails. But instead of a Kshatriya or Nedungâdi, a Brahman ties the tâli.

14. By tying tâli the Manavâlan obtains no right to cohabit with the girl. The reason is obvious because in going through the ceremonies the couple never intended cohabitation.

15 & 16. Like other persons he may form Sambandham with the girl. But for the purpose of cohabitation he derives no right from tâli-tying. It is a separate right derived from Sambandham. I personally know but one instance of such a Sambandham.

17. Some say in ancient times the Kiriya and Sudra Sects observed such pollution, but in modern times none observe it.

18. When such number of boys as there are girls cannot be procured for the purpose of tying tâli, such tâlis are tied by the girl's mother; among the sects who require an Enangan for the purpose.

19. According to the custom, a Marrumakkathâyam girl in British Malabar must undergo the tâlikettu ceremony before she attains her puberty. Custom is the only thing that can be urged in support of this rule. In Travancore and Cochin this ceremony may be performed after the age of puberty, and in this respect they follow the Nambudri Brahmins more closely.

20 & 21. According to the approved custom, a Pudamuri, or Kidakkari Kalyânam should precede a woman's consorting with a man. But it is not always a prerequisite. In North Malabar, and in respectable Nayar families in South Malabar and throughout Travancore, a pudava (cloth) is given by the man to the woman, in the presence of his relatives and friends, and a feast is then performed. In ordinary families in South Malabar, and in all Nayar families in Cochin, betel leaves and nuts are given to the woman instead of cloths. In North Malabar, a Nambudri, or a Pattar, is also required to give the cloth as a token of Sambandham. But in South Malabar the Nambudries, being big Janmis, consider it beneath their dignity to descend to the level of an ordinary Sambandhakkâran and consequently they give no cloth or betel nuts. Even in forming Sambandham with Rânis (Princesses), they do not observe this ceremony, and in so far as they are concerned there is no ceremony at all. In the case of Pattars the pride comes from the side of the woman, and consequently in their case also no particular ceremony is observed in South Malabar.

22. The difference of formalities attending the Sambandham in North and South Malabar is not very great. In so far as I know, the difference pointed out in the preceding answer alone exists.

23. According to Kêrala Mâhâtmyam, which is invariably set-up as the greatest authority in support of the Marumakkathâyam law, the liberty of having Sambandham with more than one man at one and the same time is allowed to a woman in the following words:—കുറുപ്പാശ്ചര്യം കല്യാണമൊരൊ പാത്രയായവൈ.

Here, one female may be enjoyed by three or four. But custom has now entirely destroyed Polyandry, except in some part of Cochin, and a few hamlets in South Malabar, which border on that State.

24. My answer to the preceding question will show that there is no authority for prohibiting polyandry, and a positive rule which is supposed to have the force of law, actually permits it.

25. A woman of the Marumakkathâyam family, according to the existing law, has a perfect right to put an end to the Sambandham. Her own dislike of the husband is a sufficient justification for the separation. Her omission to obtain the consent of her Kâranavan, brother, and other relatives, may be considered as bad manners. But, nevertheless the separation will be perfectly valid, and her Kâranavan, or brother, has no right to force her to subject her person for conjugal purposes to a man whom she dislikes.

26. No sort of formality is necessary to dissolve Sambandham. The non-acceptance of the usual presents on the occasion of Onam, Vishu or Thiruvâthira on the part of the woman, or the non-sending of these presents on any of the above occasions on the part of the man, is considered as a justifiable ground for the dissolution, and no further overt act is necessary to enable the man, or woman, to seek for a different wife, or husband, respectively.

27 and 28. A man may have Sambandham in more than one house and according to the custom now observed there is nothing to prevent him from doing so.

29 and 30. During Sambandham, the woman, except in the case of her being a member of aristocratic family, sleeps and takes her meals in the house of her Sambandhakkâran. In South Malabar this was not the usual custom in former days. But for the last 25 or 30 years at least, the practice both in North and South Malabar in this respect is the same.

31. As long as the woman and her children live in the house of her Sambandhakkâran he is bound to maintain them according to the custom. But when they live in their own Tarawâd he is not bound to feed them; but he is simply to give them cloth and oil. If the Sambandhakkâran happen to be a Nambudiri, or Pattar, she seldom lives with him; but is usually visited by him in her own house. This is invariably the custom amongst the ladies of aristocratic houses, both in North and South Malabar.

32. As a general rule, Sambandham lasts until the death of either party, and changing Sambandham frequently, is considered disgraceful, especially in respectable families.

33. The father feeds and clothes his children.

34. No special allowance, as a rule, is allowed by the Kâranavan to an Anandaravan who works for the Tarawâd. An Anandaravan often takes lease from the Kâranavan of Tarawâd lands, and pays the usual rent to him. With the surplus, he deals as he pleases, it being considered as his self-acquired property.

35. An Anandaravan seldom works for the common benefit of the Tarawâd. If he works or not, he is entitled to maintenance; and consequently he is not particularly anxious to work for the common benefit—but tries to make property for himself.

36. He usually gives his earnings to his wife and children, and not to his Kâranavan.

37. What a Marumakkathâyam man gives to his wife and children as a gift is often called "Puthrâvakâsam" both in North and South Malabar. It is sometimes called "Kattil Stânam" in Palghat, and Temelapuram. Though styled Puthrâvakâsam (son's right) it does not impart any legal right on the part of the son to demand for it. A man lies under a moral obligation to support his wife and children, and this moral duty creates a corresponding right in those to whom it is owing and this gift is intended to satisfy that right—and the property so obtained is therefore called Puthrâvakâsam in contradistinction to property obtained from the Tarawâd.

38. There is not the slightest objection to providing a permissive Marriage Law for Nayars. On the other hand, the decisions of the Madras High Court in second appeal Suit No. 238 of 1868 (4 M. H. R. P. 203) and in Criminal Revision Petition No. 80 of 82 have decided that cohabitation of a man and woman under a similar system of law, which enjoins greater formalities in celebrating the union, does not constitute such a marriage as is contemplated in those sections of the Penal Code which provide for the punishment of offences against the marriage right. The security created by the customary law is thus shaken by the decisions of the highest court, and statutory law alone can now re-establish that security. A more extensive learning of law has enabled the young generation to discover that

the Sambandham does not amount to a legal marriage and that they can assail with impunity the rights supposed to have been created by Sambandham. Lately there have been many instances on the part of well-to-do men to carry off the wives of poor husbands, and consequently a law to give permanency to marriage has become absolutely necessary. Freedom of contract is one of the natural rights of a freeman, and none can deny that the most important contract which a man is capable of making is marriage, and every civilized Government is therefore bound to recognise in its subjects the right of contracting marriage. The proposed Law does not ask anything more than this privilege. It simply makes lawful for a Marumakkathâyam follower to contract marriage. The law is thus purely optional and only seeks to revoke some restrictive law, which is opposed to good morals. This restrictive law is supposed to have originated from the selfish desire of a Brahmin ruler to preserve the importance of his own castemen. He ordained that the eldest son of a Brahmin family alone should marry, lest its property be split by division, and that the younger sons should consort with Nayar women. The Brahmins thus required Nayar women for their consorts. Again, the thirty thousand Brahmins whom he enrolled as soldiers for the protection of the country became disgusted with their new profession, and consequently returned to their sacerdotal avocations. He thus required Nayars for soldiers, and their women for the consorts of the younger sons of the Brahmins. He consequently prohibited marriage amongst them lest family affection may ever enter into the head of man, and lest women may have any scruple for being allowed to be kept by Brahmins. He expressly ruled that there should be no chastity among them (പാതിവ്രത്യവ്രതം, Pâthivrithya-vritham-mâsthu) and that they should satisfy the lusty desire of the Brahmins. Even at the present day a Nambudri thinks that he has a right to have sexual intercourse with a Nayar lady whatever might be the position of her husband. The British Government having no desire to protect the importance of the Nambudris, and to make means for satisfying their carnal desires by compelling Nayar women to become prostitutes, is not only justified in removing the restriction but is absolutely bound to do so. The reason of the rule of the prohibition having now ceased to exist the rule should also go with it. Further the people have now attained such a degree of enlightenment and civilization as to enable them to discover the immorality and unreasonableness of their present custom, and are therefore longing for a change in their law of marriage and inheritance. Amongst the persons with whom I conversed on the subject, 99 out of 100 are in favour of the change. Most of the educated people are certainly in favour thereof and the opponents are usually found among the members of aristocratic families,—Apandaravans of rich Kâranavans, men of loose and licentious characters, and superstitious ignorant persons, who still labour under the idea that Brahmins are earthly Gods, and that it would be sinful to throw any obstacle in the way of their free sexual intercourse with their women. In the first three cases the objection arises from motives of self-interest and no heed should consequently be paid to it, and in the last case they are to be pitied. The law is only permissive, and they need not therefore incur the sin.

39. I shall retain both the form proposed in the Bill, and also the existing form of Sambandham which the parties should be allowed to legalize by registration. Many well-to-do people object to go before a Registrar to solemnize their marriages and make him a sort of marriage priest. I would therefore propose that such people as would object to go before the Registrar may be allowed to legalize their Sambandham at some subsequent period. By allowing both the forms, those

that cannot wait may at once go and celebrate their marriage in the form proposed in the Bill, and those that are anxious to ascertain whether the union will be happy or not may legalize it by Registration at a subsequent period. The marriage should then take effect from the date of the Sambandham, and not from the date of Registration. In the fourth condition instead of the words "any law or recognised custom" I would substitute "Hindu law as observed in Southern India". Section 19 allows any other person to object to the proposed marriage.

It is true that the word "other" after the word "Guardian" implies a man of the same kind. But it is dangerous to have such dubious words in a special enactment, and consequently instead of the words "any other person", the words "any member of the Tarawâd of either party, or his or her father if he be of the same caste with him or her", may be substituted.

40. The conditions of a valid marriage under the proposed Act differ from those of the Sambandham recognised in practice in the following respects:—(1) Under the proposed law neither party must at the time of the marriage have a husband or wife living; whereas under the existing practice the man may have a wife at the time, (2) The man must have completed the age of 18, and the woman the age of 14; whereas the age limit according to the present practice is 16 and 12 respectively, (3) if each party has not attained the age of 21, he or she must obtain the consent of his or her legal Guardian to the marriage; whereas Sambandham requires this consent even after the age of 21, (4) the relation of the parties must not be such in respect of con-sanguinity, or affinity, that according to any recognised custom, a marriage between them would be improper; whereas Sambandham recognises only the Hindu law for determining whether the connection would be improper on the ground of consanguinity or affinity. I approve of the first two conditions of the proposed Law. As to the 3rd, I would reduce the age of woman to 16; because at 21 she may become the mother of several children, and it is cruel to restrain her liberty in conjugal matters for so long a period. In point of consanguinity, instead of having the vague words "any law or recognised custom", I would like to substitute "Hindu Law as observed in Southern India"—Proviso 1. I would like to recast it in the following words:—No such rule of Hindu Law other than one relating to consanguinity or affinity shall prevent them from marrying. I shall strike out the 2nd proviso altogether as it would permit a marriage between the members of one and the same Tarawâd which is repugnant to the feelings of the present generation. Under the proposed Act, a Tiyan may marry a Nayar woman and vice versâ; which under the existing state of society is revolting to the feelings of every Nayar. To guard against such marriages, the consent of the Kâranavans, or of the majority of the members of the respective Tarawâds of the man and woman, should be made a condition for retaining his or her right of property in these Tarawâds.

41. I would not omit any of the conditions contained in the 4th Section of the Bill but would add the consent of the Tarawâd evidenced either by the will of the Kâranavan, or by those of the majority of its subordinate members, as a condition not for the validity of the marriage, but for keeping-up the rights of Tarawâd property of the parties to the marriage.

42. Adultery on the part of woman, or loss of caste of either party by conversion to another religion or otherwise, or refusal on the part of the woman to cohabit with her husband, or such permanent illness or disease as to incapacitate

either party for the exercise of conjugal rights, is now considered as sufficient reason for dissolving a Sambandham. The same grounds may be retained in the proposed law as valid reason for dissolving a marriage—but the process prescribed in the Indian Divorce Act should not be the sole means of dissolving the marriage. A Nayar would be the last person to go before a public court, and to ask for a divorce on the ground of his wife's adultery. His sense of honor will not permit him to do so—and considering the difficulties of dissolving the marriage, he may be slow in contracting it. It is therefore desirable in the interest of the proposed Law to remove the apprehension of this difficulty. The parties should therefore be allowed an opportunity of dissolving the marriage by a mutual agreement, without going before a public court for the purpose. At the same time, the permanency of the marriage should not be allowed to be disturbed by the mere caprice of either party. Under the prospects of having a richer husband, the woman or her relations are often induced to break off the Sambandham with a poor husband to enable her to marry the richer man. In such cases, the man's feelings are wounded—and under the impulse of the moment he might enter into an agreement for dissolving the marriage. To prevent such occurrences, it is advisable to allow the parties a certain period, say one year, to ponder over the matter of their disagreement. The party desirous of dissolving the marriage should give notice to the other of his or her desertion through the Registrar of the office in which their Marriage had been registered, and if the parties could not make-up their quarrel during a period of one year from the date of the said notice, they may then enter into a mutual agreement of dissolution and have it registered by the Registrar through whom the notice was served. This will have the effect of a divorce and save the parties from the disgrace of exposing their shame before a public court. If either party is still insisting upon keeping-up the marriage relation, he or she may go before the court. In that case, it is the deliberate intention of the party to go to disgrace and none would pity them.

43. As long as the wife and children remain with her husband, he and his Tarawâd are now under a moral obligation to maintain them. But when she and her children live in her own Tarawâd house, the Tarawâd feeds them and the husband supplies the wife with oil and cloth and other sundry expenses.

44. I approve of the conditions contained in clauses (a) to (f). But, as I already remarked, the consent of the Tarawâd to the marriage should be a condition to keep alive the rights of the wife and children to the property thereof. It can hardly be denied that the highest object of affection of a man is his own wife and children—and amongst all civilised nations the right of succession to a man's property is regulated by the degree of natural affection which he entertains for the heir. All over the world, the son succeeds to his father's estate as he stands foremost in his father's affection. It is the father who brought him into this world—and it can be hardly doubted that the responsibility for making provision for him ought to rest on the father. The great majority of the Marumakkathâyam people are in favor of giving their earnings to their children, and they even attempt to carve out secretly from their Tarawâd property something to enable them to make sufficient provision for their children. At the present day, it is the wish of every Malayâli to give his earnings to his children and by passing the proposed Law the legislature would simply make legal what every one observes in practice. The opponents of the proposed law urge two principal grounds against the change; viz., (1) the Tarawâd brought-up the man, and it is therefore just that he should make a return

for it, (2) that the members of the family perform the funeral rites—and that they should therefore take the heritage. As to the 1st ground, at least for the last twenty years, it is the father who usually brings-up and educates his children. The Kâranavan, as a rule, is unsympathetic and seldom educates the Anandaravars. He barely feeds them; because, by a positive rule of law he is bound to do so. Moreover it is only an element for consideration in determining whether the earnings of the person are his self-acquired property or not. If he acquired them with the aid of the Tarawâd, they become common property thereof and they would not in that case pass to the wife and children under the proposed law. But if it is once determined that the property is his self-acquisition, he has an absolute right in it and can dispose of it at his pleasure without making any compensation to the Tarawâd for having brought him up. The right of dispose is not merely a privilege accorded to him as it was the case with the ancient Romans before the time of the Emperor Justinian. After Justinian the property of a *Filius familias* descended to his personal heirs, and the Nayars at the beginning of the British rule had reached this stage of the Roman period although a few decisions of the High Court tend in an opposite direction. The property should therefore descend to his children as they would be his personal heirs. As to the second ground, the fitness of a person to make funeral cakes to the deceased is no doubt a condition of inheritance under the Aryan Law. But this is a peculiar doctrine of *Jemootha Vâhana* and his followers observed in Northern India. In the Southern part of India even the normal Hindus do not follow this doctrine. The *Mitakshara* the greatest authority on inheritance in Southern India altogether ignores the religious merit. Persons who confer no religious benefits whatever are admitted as heirs under this Law. In this part of the country the capacity to confer religious benefits is not the ground for regulating succession. Even if this capacity be considered as the paramount reason for regulating succession, the son should stand foremost among the persons who can present funeral cakes with any spiritual efficacy. Nayars are essentially Hindus in religion, and Hindu Sastras must be their authority for seeking spiritual benefits by performance of post obit ceremonies. Whomsoever the Hindu Sastras name to be the fittest person for the performance of such ceremonies for other Hindus, he must equally be the fittest person for Nayars also. That this person is the *son*, no Hindu can deny; and in fact he now performs such ceremonies and gets nothing from his father in return. It is true that there are some texts in “Manu,” “Yâtuyavalkya” and others to the effect that a Sudra, who does not know his father, may present oblations to his maternal uncle. If these texts are of any authority, they must be equally binding upon the Sudras all over India. They are found among the texts which recognise 12 sorts of sons and recommend a brahmin to make over his wedded wife to another to beget a son (കുടുംബം). They are now absolute and binding upon none. The Kerala Mâhâtmyam which is set up as a special authority for Malabar, also treats the father as the highest object of reverence and recommends the performance of uncle’s funeral ceremonies as if one would do for his own father “മാതൃലാഭം സാക്ഷാൽ പിതൃദാദിശ്ചൈവ” “Mâthulânâja samskâram pitrunuddhisya jâthayah,” and the promiscuous intercourse recommended in the previous chapter and the consequential inability of one to know his own father is the sole ground assigned for the rule. It will be thus seen that there is no force in the argument which some set up that the key of spiritual salvation amongst the Sudras is with the nephew and that the legislature cannot order the transfer of inheritance from the nephew to the son

without transferring such key also to the former. In fact, the key was never with the nephew if the Hindu religious works are to be believed. The 61st and 62nd rules of Anâchâram are not pretended to enact any new law. It is a mere codification of what had been already enacted by Parasu Râma—because, Marumakkathâyam system of inheritance had existed before Sankarâchâriar promulgated these rules of Anâchâram—and Kêrala Mâhâtmyam is thus the sole basis of the law—and we have seen there is not much in it in support of the argument. Under the Marriage system now proposed to be introduced, a Nayar would as any other Hindu, be certain of his father—and therefore there is no harm in changing the line of succession from the nephew to the son, as the sole reason given for the existing system will then disappear. If the nephew still considers that he is under a moral obligation to perform his uncle's funeral rites and does perform them, he will be only doing what the son has been hitherto doing without any remuneration. Even at the present day, the nephew does not invariably perform them—and as a rule, a distant member of the Tarawâd, who has no particular business to transact is told off to attend to them. The religious belief in the efficacy of the nephew's performing the ceremonies is thus already shaken, and indeed in practice the nephew does not as a rule now get the inheritance. The High Court thinking that the right of an Anandravan to hold incumber and dispose of his self-acquired property, is a mere personal privilege accorded to him, as it was the case to a *Filius familias* under the Roman Law before Justinian, has ruled that it should incorporate itself with the Tarawâd estate and pass to the management of the Kâranavan, who as a rule is a distant relative possessing no religious merit for performing the obsequial ceremonies with any spiritual efficacy even under the Kêrala Mâhâtmyam. For all practical purposes the Court-made law has thus already taken the heritage from the nephew, and the Legislature will only now make its devolution more natural and reasonable. As Tarawâd is a mere civil family and no religious element enters into its constitution it is an utter nonsense to talk of the key of Salvation being with the nephew. The two grounds urged are thus shown to be no valid grounds for not changing the line of succession and it is for this reason I approve of the proposed law. I however think that the maintenance of the mother of the deceased ought to be a charge upon his or her estate.

45. It is customary.

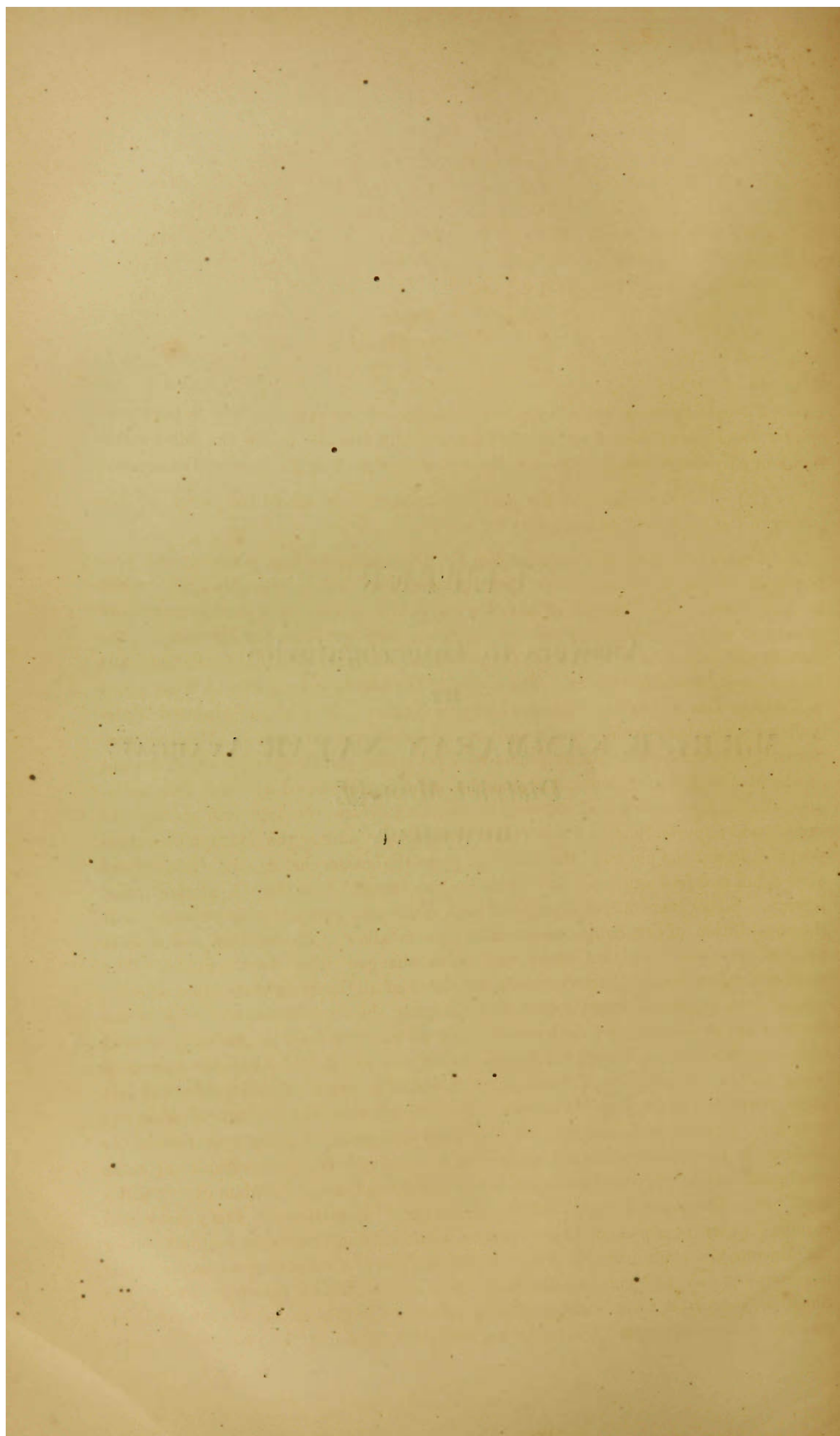
K. R. KRISHNA MENON,

*Retired Sub-Judge,
Walluvanad Taluk.*

LETTER
AND
Answers to Interrogatories

BY

M.R.Ry. B. KAMMĀRAN NAYAR AVARGAL,
District Munsiff,
CHOWGHAT.



CHOWGHAT,
5th May, 1891.

To

H. M. WINTERBOTHAM Esq.,
Collector of Malabar,
On Special duty.

Sir,

The questions on which you have asked my opinion are (1) Is it in your opinion, desirable to pass a permissive Law enabling Hindus under the Marumakkatayam or Aliya Santanam Law to contract a marriage such as the Law will recognise?

(2.) Is it desirable that the said Hindus should be given the power of disposing of their self-acquired property by will?

I shall first deal with question No. 1. Discussions on that question, and proposals of reform in the existing system, have been before the Malayali public for some years. The records of the Kerala Sabha, which have been summarised in a small printed pamphlet, a copy of which you can get from the Secretary of the Sabha, will shew that in 1878 a society entitled "Malayala Sudrâchâra Parisodhana Sabha" was formed at Calicut. The object of the society was chiefly to bring about a Marriage Law among the Marumakkatayam Hindus. Most of the educated Malayalis were members in the society, and branch societies in all parts of Malabar were formed, and considerable subscriptions were collected, and these still are in deposit in the Madras Bank, Calicut. Considerable activity was shewn by the branch societies, and the Secretaries, and others, in exposing before the ignorant masses, the defects and imperfections of the existing marital ties among the Marumakkatayam people. It was the object of the Sabha to place the matter before the Government after a full and free agitation, and when it had become ripe for legislative interference. Some years after, a proposal was made and carried by a majority that the constitution of the Sabha be altered so as to allow it to consider and discuss political questions also. Its name was since changed into Kerala Sabha. The members at the Head Quarters chiefly consisted of all the important native officials, vakils, and other educated men. The change in the constitution and aims of the Sabha was the mark of its declension. The officials one by one gradually severed their connection, and though the Kerala Sabha now exists, and I had the honour of being one of its last Vice Presidents, it is virtually dead. I believe for the last three years we never had a meeting. But though this was the fate of what was once a very important, and one of the most influential Sabhas ever formed in Malabar, it has awakened many people to a sense of the imperfections of their own social condition, and the subject of our "Sambandham," "Pudamuri," "Kidakura" &c. ever since formed matters of desultory discussions in every nook and corner. There is considerable divergence in the existing marriage customs among the Marumakkatayam people. The "Kalyanam" or the Tali-tying ceremony, while it recognises all the ceremonial observances of a Hindu marriage under the Shastras, is only a form without the substance. It creates no ties of any sort, and its details and effect are irrelevant for the purposes of the question on hand.

It is, however, a ceremony after the performance of which alone a female is competent to accept a husband. The Kalyânam is not to be confounded with the Pudamuri, or the real marriage. What I wish here to inform you is the nature and effect of the marriage customs among the Marumakkatayam Malayalis. In North Malabar the ceremony is called "Pudamuri" or "Vastradânam" among the Nayars. It goes by various names in South Malabar, the most general being "Sambandham." In Palghat, it is also called "Kidakkura." The Brahmans of the ancient Payanur Grâmam, the noble families of Kolatiri (Cherakal), Kottayam, Katathanâd and Kurumbaranâd Rajas, the Ambalavâsis, the Tiyars, the Moplas of Cherakal and Kottayom Taluks and portion of Kurumbranad Taluk, follow Marumakkatayam with the Nayars. Among the Marumakkatayam Hindus in North Malabar the Karanavan of the bridegroom makes a formal proposal to the Karanavan of the bride. An auspicious day is fixed when some of the relatives of the two families are invited, the marriage is agreed to, and a day is fixed on for celebrating it. On that day a feast on a considerable scale is got ready at the bride's house. At night, attended by as many friends and followers as the bridegroom can get together, he proceeds in all ostentation to the bride's house, where at the gate, the party are greeted and received by the bride's people, and conducted to their respective seats. Betel and perfumes are profusely distributed, and supper is served. Dakshinas (presents) are freely given to the Brahmans of the locality, who attend the ceremony for the purpose, and in some cases before supper, and in others after it, according to the auspicious hour, two lamps are lighted at the central room where first, the bridegroom with a few chosen friends makes his appearance, and the bride supported by two of her female relatives next appears. By the time a bundle of the finest clothes is got ready, and the bridegroom makes it over with some gold and silver to the bride who, all bashful and modest, and held up by her female friends, receives it and retires. Meantime an apartment is gorgeously decorated and got ready, and after supper, the bridegroom is conducted to it. The next morning before sunrise the bridegroom goes away, and in the course of that day, or some other select day, the bridegroom's sisters and nieces go over to the bride's house where a feast is got ready for them and they take the bride to their house. These are the principal features of marriage ceremonies in North Malabar. Most of these ceremonies are observed in some families in Calicut and elsewhere, and with some modifications in Palghat. In North Malabar, the wife as a rule lives with her husband in his Tarawad house, and herself, and her children by him, are maintained by the Tarawad. Though this is the custom it had not received judicial recognition till 1878 when in *V. Valia Parvadi and another vs. V. Raman Nayar*, VI Madras, page 341, the Madras High Court upheld the custom, and decreed a claim for the maintenance of an Anandaravan's wife in a suit by the Anandaravan. In North Malabar, a considerable portion of the self-acquisitions of a man, usually not less than a moiety, is given to his wife and children, and the rest to his Tarawad or brothers and sisters. I have even heard of rare instances of nephews of a deceased acquirer making the distribution after his death. Except in cases where the father happens to be a Raja, a Nambûdiri, or Ambalavasi, a Nayar invariably performs the funeral obsequies of his father. These customs and observances which, if they had been left to take their own natural course and tendencies, would have been ripened into the ordinary Hindu Law of marriage, have given grounds in some quarters in North Malabar, for the contention that Mr. Sankaran Nayar's assumption that the Malayali has no legal and binding marriage, is untenable, and that the matter

must be fought out in a court of justice. But I believe our courts rightly or wrongly have all along assumed that there was no legal marriage among Marumakkatayam Malayalis, and after the judgment of the High Court on the Aliya Santânam Law of marriage, it appears to me desirable that the Government through its Legislative Council, should deal with the question. After the first break-up of the village or Tara community, and after our ancestors had entered on the joint-family system or the second stage in the progress of civilization, their social and political conditions of life rendered a form of Marumakkatâyam necessary in the devolution and enjoyment of property among Nayars. I shall not here go into details as to what those conditions were. Our ancestors were about to leave behind them the joint-family system, and enter in the march of civilization, on the third or Patriarchal system, with the father as the Head of an undivided and indivisible family, as the Nambûdiris now have. I think, but I am not certain, that the Nambûdiris at that early age, instigated our Rajas and princes to assume for themselves a caste superior to the Nayars from whom most of them had actually sprung. The result was that these Rajas and princes had to allow their females to have connections with the Nambûdiris to perpetuate their families, and the combined influence of the Rajas and the Nambûdiris, retarded the progress of civilization and social reform among the Nayars. Then came the Mahomedan invasion, and the country was for years in anarchy and the grossest misrule, till Britain helped her out of it. Then peace was restored, and courts of law were established. The courts were enjoined to respect and recognise the laws and customs of the country as they existed. The Nayar community had by the time only reached the stage of Tarawad joint-family system in their onward march in civilization. The Hindus on the other side of the ghauts, with greater facilities of communication and better education, had, by the time, reached a much higher stage. Individual rights in property had, by the time, become a recognised law among them. But the Nayars, cooped-up within their mountains and the seas, and more often engaged in war and plunder than the civilizing influences of education, art and cultivation, had little time to think of marriage and education, and the rough old soldier returned to his sister with his loot towards the close of life, when he was no longer fit for fight. This facilitated Nambûdiri connection with the Nayar female, and the consequent perpetuation of the joint-family system. The courts of law found the Nayar in this condition. This they believed to be our law, and justice was accordingly administered. No encouragement was given to the working of those natural causes which lead on a nation gradually and almost imperceptibly in social progress, and people were held fast to their customs. The Government kept aloof from all interference in such matters. The Tarawad had since broken-up into innumerable Tavazhis. The acquisitions of an Anandaravan were inherited by his sister and nephew, and these formed subordinate branches with distinct rights, and a good Karanavan never interfered with them. All elements calculated to effect disintegration and disruption of the unwieldy Tarawad system, were gathering together. But the courts refused to recognise these signs of the time, and yielding to the force of what they considered to be inexorable logic, decided that the Tarawad, if anything, must be one and indivisible, and that all the acquisitions of a deceased member must lapse to it. I am bound to tell you that this has retarded our progress more than anything else. The natural process of disintegration was stopped. Men and women, who would have formed industrious and independent families, are now huddled together in a huge camp called the Tarawad house. It has called into existence a number of idlers in a Tarawad, dependent on its

resources, unwilling to work, and ready to come to court with a suit against the Karanavan.¹ It has destroyed all individuality and sense of responsibility. In Palghat and other places, I can point to many Nayar families each living in one house and numbering as its members from 50 to 200 souls. These persons are mostly born, of different parents, with different tastes and manners, and are compelled to live together by an inexorable law. Not a day passes without some fight or other. I am not to be understood that this is the case in all families. There are many well regulated families. But the magnitude of the evil is of sufficient importance to challenge attention. The position of a Karanavan throughout Malabar is very invidious. His duties to the Tarawad are in daily conflict with his sympathies for his wife and children, and the result is discontentment and litigation. In the Walluvanad taluk, and portion of the Ponani taluk, as a rule in aristocratic families, and amongst the rest, except in respectable middle-class families, what is called marriage is only a temporary association of sexes guided merely by animal instincts, without real affection, and devoid of conscious responsibility. No tenant in Walluvanad taluk, unless he be an educated man or a Government official, dare to perform the funeral obsequies of his deceased father for fear of his Nambûdiri landlord's displeasure.

I have so far spoken about the Marumakkatayam Malayalis generally. There is an intelligent and influential class among them. It is growing in strength and power every day. I mean the class of educated Malayalis. These are mostly Government servants and vakils, and they are most of them important landlords and tenants. Their conditions of life, and the circumstances in which they are placed are peculiar and it will be seen that these demand special attention of the Government. The educated Marumakkatayam Malayalis as well as those who are in the Government service or in the bar, invariably live with their wife and children, far away from their Tarawad, on account of their avocations. Their affections and sympathies are centred in their wife and children. The greatest care is bestowed on the breeding and training of the latter. They come in contact with Europeans every day, and they have friends among them, and they bring up their sons and daughters on the best models. We have already half a dozen young men of our country in England, studying for the bar, or for the Civil Service. It appears to me unreasonable to compel these men, with all their education and civilization of 1891, to go back to the 18th century, and ignoring the claims of their wife and dear children, look after the comforts of their great-grand-mother's sister's grand-daughter. For such and not less remote, are some of the blood-relations you find in a Tarawad. We have already had sad instances of high Government officials, who having completed their honourable career, and having lived all their life with their wife and children in their official stations, found their Tarawad house when they returned to it, and their Marumakkatayam relations, too inconvenient and unbearable. They had all along led a semi-Makkatayam life, and out of deference to old custom and the wishes of their Anandaravars, had made over portions of their acquisitions to the Tarawad for common enjoyment. But when, as a pensioner they return with their wife and children, to their Tarwad, hoping to live in peace with their brothers, sisters and nephews for the rest of their days, they are sadly disappointed. The Tarawad hates the wife. The man's peace is gone, and we have sad instances of good and honourable men putting an end to their life unable to bear the disappointment. If we want to give anything to our wife and children now, we have to beggar ourselves in our lifetime, with all the multifarious demands on our purse. It appears to me, that even if the Rajas and the Nâduvâzhis do not wish for a change, the circumstances and conditions of

life of the educated Malayali justify the passing of a permissive Marriage law. The uneducated portion of the community may be divided in their opinion. I have asked many a man as to his views on the subject. The uneducated man will at once tell you, "O! no we do not care for Makkatayam as the Pattar and Chetti, and split up our properties." But do not stop your enquiry there. Ask him "Have you no wife? Are you not married to her?" "Yes. I have a wife and I am married to her." "Is it proper or good that you or she should discard each other as either of you wish?" "Of course, not. That is improper and not our "മുള" mariâda (custom)"

"Are you not bound to maintain your wife and children?" "Yes, and we do it." "Don't you give a portion of your self-acquisitions to them?" "Yes." "Have you any objection to have these customs declared as your law in an Act of the Government?" "If this is all. It is very good."

If you familiarise yourself with the man, you will in the end, find that he is at the bottom of his heart, a Makkathayam man. The granting of a permissive Marriage law, in course of time, would effect a great change upon the whole community. When the uneducated, ignorant, conservative, Malayali finds the educated men who marry under the law, live honorable lives, and introduce elements of order, reverence and self-respect in their families, then he will be awakened to a sense of his own degraded condition, and the value of real family life, and then he will boldly put off his mask, and follow the lead of educated men. It further appears to me, that a permissive Marriage Act is the most suitable law that can now be granted to us. It can do no harm to anybody. The wisdom of the proposed Act can best be tested by its results, and I hope before you leave old Malabar, you will be able to realise its fruits, and see a great and desirable change in Malayali Society. It is impossible that the Marumakkatayam Malayali should be compelled to stick to his barbarous law and customs for ever. The British Government have not in vain been spending so much money and trouble to educate us. Marumakkatayam cannot stand the advance of education and civilization. The Nayar also is bound to join in his race with civilised nations. The case of Hari Muti, and the suit against Rukmi Bhai gave us a law raising the age of consent. The facts disclosed in the late Manapuram murder case, and a series of similar cases, the Tarawad litigations, and the requirements of advancing civilization, cannot fail to establish a stronger case entitling us to a permissive law regulating our marriage and inheritance.

As to question No. 2 I can afford to be very brief. The country, I believe, is unanimous in demanding a law enabling the Marumakkatayam Malayali to make testamentary dispositions of his self-acquired property. There was a time when this power was denied to the Makattayam Hindu. He has, however, successfully fought it out in Court of Justice. With Komu Menon and another *vs.* the Secretary of State for India, XII Madras, page 126 before us, I think the Marumakkatayam Hindu may succeed in establishing his power to make testamentary disposition of his property before the High Court, if an occasion presents itself. But the proposed bill, if it becomes law, settles the question once for all.

In conclusion, I have only to observe, that while I support the principle of the bill introduced by the Honourable Mr. C. Sankaran Nayar, I am not prepared to support him in all its details. But this is neither the time nor the place to enter into those questions.

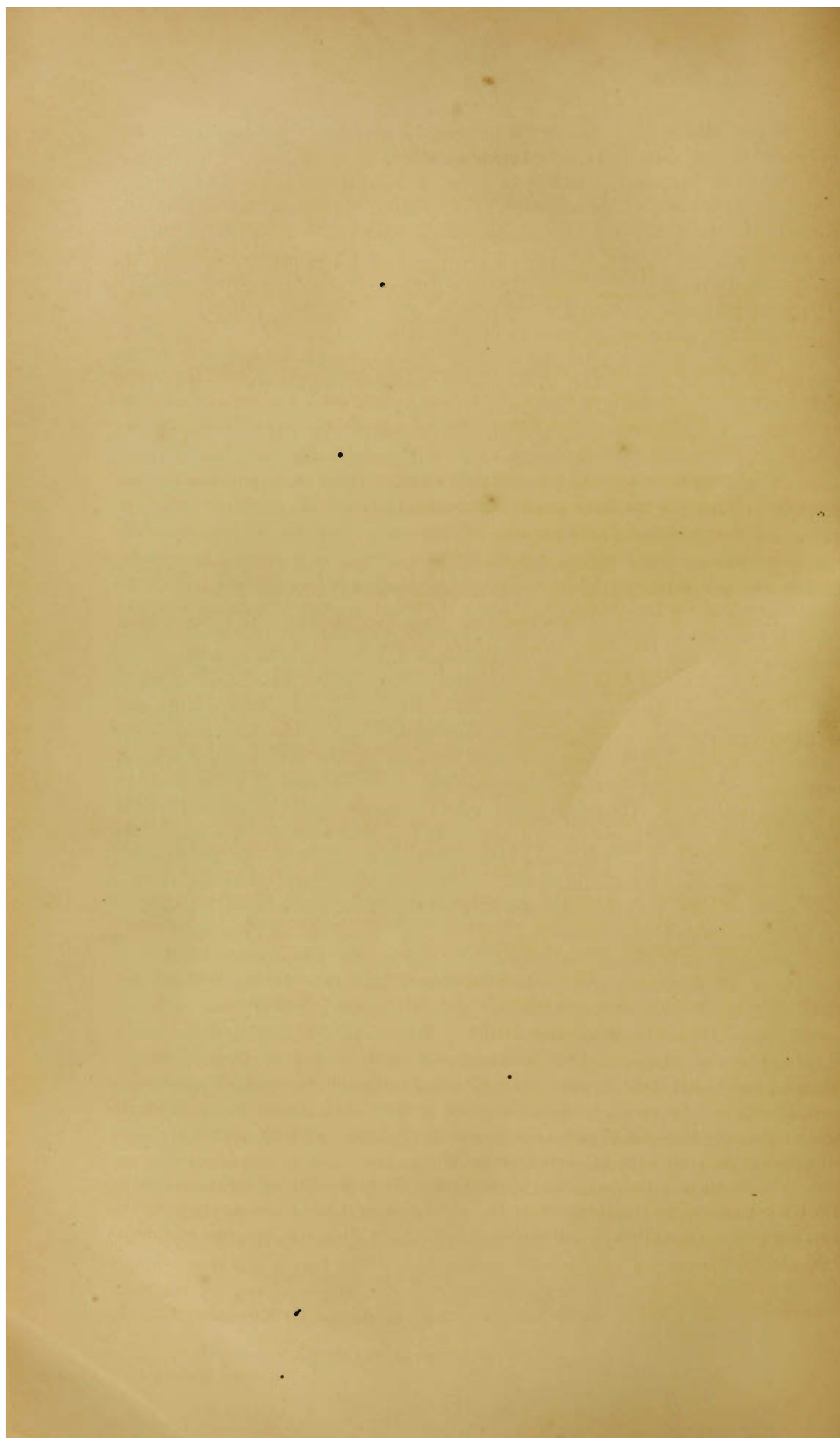
I have the honor to be

Sir,

Your most obedient Servant

(Signed) B. KAMARAN NAYAR,

District Munsiff.



Answers.

1. Yes.

2. No; not in North Malabar, Calicut and Ernad Taluks. But in the Manapuram Amshoms of Châvakad and the Native Cochin Territories, the practice of a man of lower division making a Sambandham with a woman of higher division does prevail to a certain extent.

3. Sambandham between castes which observe Asudham (അശുദ്ധം=pollution) if the one touches the other, as well as between a barber and a washerman caste, are forbidden. A "Chârna" woman does not marry a Sudra except in Chowghaut and the Cochin State.

4. Excommunication of the woman from the division to which she belongs. The man ordinarily is not subjected to any social penalty.

5. Not, so far as I have known.

6. Formerly the Korapuzha river; but now the Vadakumpuram people of Calicut who are on this side of the river intermarry with the North Malayali.

7. and 8. A North Malayali man can make Sambandham with a South Malabar woman provided the rules of caste division allow it, but except in the case of Calicut Vadakumpuram people a South Malayali man does not marry a North Malayali woman without the penalty of excommunication of the latter from her caste. The reason why the North Malayali does not allow a South Malayali man to marry a North Malayali woman probably is that in ancient times the Zamorin of Calicut was allied with the Moors and Moplas and made his conquests and settled himself at Calicut as reigning prince. The ancient royal families of Kolatri and Kottayam interdicted the North Malayali women from crossing through Calicut or settling themselves there or making alliances with South Malayali men. The North Malayali being more conservative than the South Malayali, the old prejudice was handed down from Karanavan to Anandravan, and it is hoped it will be altogether removed in course of time. So far as castes and social positions are concerned the North and South Malayali are on a footing of perfect equality.

9. Not generally. The only exceptions being those already described and in the case of the North Malayali known by the caste name "Madavars."

10. Vide answer to question No. 8.

11. to 15. In ordinary Nayar families where there may be a dozen girls, as the senior girl attains the age of eleven, or at the outside thirteen, which is only very rare, the Karanavan proposes the celebration of the Kalyânam ceremony for all the girls. He accordingly with that view invites his friends and relations on a certain day, and in consultation with them and the village astrologer an auspicious day and hour is fixed for the celebration of the ceremony. In some families eight days before the Kalyânam day, and in some others, three days before it, the Brahmani (ബ്രാഹ്മിണി) or a Nambiassen female, is invited and brought for the Ashtamangaliam (അഷ്ടമംഗലം) ceremony. That ceremony over, the castemen, relations, friends and Desam-people attend at the night previous to the first day of the Kalyânam and the Athâzham (അത്താഴം) feast is given. The next morning the company of females with the

Brahman go out for their bath and return bedecked with all manner of jewels. Meantime if the Tâli-tying ceremony is intended to be performed by the girls' castemen, one such man for each girl is selected on a consultation of their horoscopes. These men are called Manavâlans. They are duly invited and as the auspicious hour approaches, they come to the girl's house in a grand procession attended with a lot of people with sounds and drums. Meantime the girls are brought to a gorgeously got up Kalyânapanthal (കല്യാണ പന്തൽ) where the Brahman sings the marriage songs. As the Manavâlans approach the gate, a number of matrons with "Thâlams" and burning lamps receive the Manavâlans at the gate who are taken to the Kalyânapanthal and there under the deafening roars of "Kathina" (a sort of cannon) and the cheers of the crowds, the Manavâlan ties the "Tâli" around the neck of the girl selected for him. The girls are then borne by castemen, relations or Nambûdiris to the central room (മുള) where on the "Karumpadom" and "Vellays" spread for the purpose and in the front of lamps lighted, and with other ceremonial observances, each Manavâlan takes his seat by the side of his girl, and chews betel. The Manavâlan and the Brahman are then dismissed and sent home. Throughout the ceremony an arrow is worshipped at the "Panthal" for each girl, and she must always have in her hand a knife, and a "Vâlkanâdi" (metal looking-glass). The Manavâlan if he happens to be a Kshatriya Thirumulpad or a Nambudiri, is only one for all the girls. He goes through the ceremonies one by one for all the girls, and is paid so many fanams for each girl, and when the ceremony is over he breaks the relation by tearing a cloth. In the case of the girls' caste Manavâlans, though the ceremony creates no rights of husband and wife, and the Manavâlan is not entitled to cohabit with the girl merely on account of his having performed the functions of a Manavâlan, the girl observes pollution (പുല) on his death. These are some of the principal features of the Kalyânam ceremony. There are more things to be said with respect to the details, but they are neither of much importance nor uniform in all places. If the Manavâlan wishes to make Sambandham with the girl, and if the guardians of the girls agree to it, there is nothing whatever against such "Sambandham."

16. I only know of one instance of this sort.

17. In all cases of the girl's caste, Manavâlan's pollution is observed.

18. The mother ties the Tâli in the case of extremely poor families who cannot otherwise afford to do it.

19. Except in the Manapuram amshams of Chowghaut and the Native Cochin State, the practice is that the Tâli-kettu ceremony is performed before the girl attains the age of puberty. There is nothing but custom to be pleaded in justification of it unless we take it that the ceremony is but a living memento of real marriage among Nâyars as among the Brahmans of the other coast. But the girl suffers no excommunication if the ceremony was not performed before puberty. We had one instance at Calicut in a high family.

20. That is Sambandham ceremony. That is the marriage proper. That has to be performed to unite a man and woman as husband and wife. I have described this ceremony in my report to you. I shall here simply refer you to it.

21. I am informed that the ceremonies are gone through, with this exception that the Nambudiri, or the Pattar, is feasted at the "Mattam" (മട്ടം=Brahman's house).

22. The details differ especially in the giving of cloths, between the North and South Malayali. The formalities are the same throughout North Malabar. In South Malabar there are some local differences.

23. Certainly not.

24. It is prohibited. The Malayalis in a body will tell you it is so. There is a tradition that in some places in Nedunganad, polyandry once prevailed. But you will find on closer investigation that the association between sexes by a Sam-bandham was rather loose in those localities.

25. It is said she might. But a woman does it only in defiance of Public indignation, and obloquy.

26. Notice to the maternal relations, or Karanavan, of the girl, and the ceasing of giving subsistence attended with deliberate omission to visit the woman on the part of the husband, are accepted as dissolution of the marriage.

27 and 28. He can in theory; but he does not do it in practice.

29 and 30. In the North Malabar in the husband's house; and in South Malabar there is no particular custom. It is regulated by mutual consent and convenience.

31. He invariably does it to the best of his means except in the families of Rajahs and some Nâduvâzhis.

32. They cleave together for life.

33. He does feed and clothe them and also educate them. Most of the educated officials in Government service are so brought up. So also are most of the educated Marumakkathâyam Malayalis.

34. That depends on the character of the Karanavan. A good Karanavan does it. The Anandaravers are allowed to hold Tarawad lands on easy rent and they enjoy the surplus at their pleasure. This is usually the case in the Palghaut Taluk.

35. A good Anandaravan makes over a portion of his earnings to his sister and brother. But it is not always that they form the Tarawad. He has no sympathies with his remote relations in the Tarawad.

36. The claims of his wife and children are never overlooked. They are maintained by him and a portion of his acquisitions goes to them invariably as gift. I do not think the Anandaravan hands over his earnings to the Karanaven unless the latter happens to be his elder brother.

37. Properties which a man has got from his father are called Puthrâvakâsam. You will find a judgement of the High Court on it at page 315 Volume VII, I. L. R., Madras Series so far as I remember. The name Puthrâvakâsam is a North Malabar word. But it is also used in South Malabar. The practice of giving property to children prevails both in North and South Malabar.

38. None whatever so far as I know. We might meet with some difficulties at first owing to caste divisions. But these difficulties will soon be got over. Why? How does the educated Malayali now manage? Without a marriage law, he is every inch an adherent to the provisions of the proposed bill. For further information I refer you to my report.

39. Proposal to call a Registrar appears to be very unpopular. Personally I can find no objection to it. The present customary form may be retained.

40 and 41. We are Hindus. The Hindu Law on these points must also be our Law.

42. Adultery.

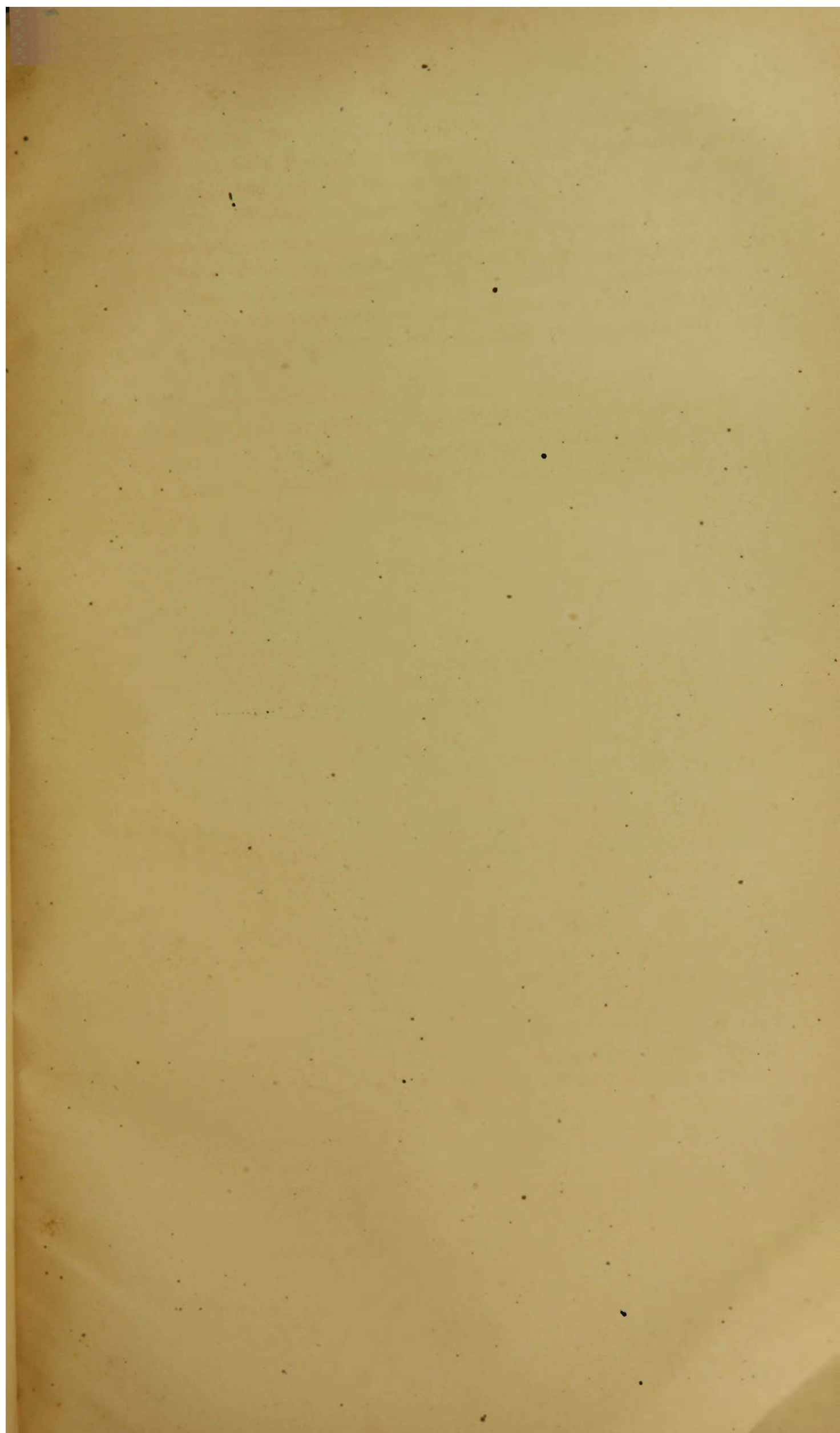
43. In North Malabar and Calicut among all, and among the educated people

and officials and rich men in South Malabar, the wife and children are clothed and fed by the husband. Among the poor men in South Malabar cloths and oil are supplied and the expenses of confinement are met. Money and clothes are also given for Vishu, Onam, Thiruvadira and other important occasions.

44. I approve of the new rights created by a marriage as detailed in (a) (b) (c) (d) (e) and (f). But I must inform you that many consider that the mother, sister and brother of an intestate must be allowed certain share in his properties. I consider their claims are entitled to favourable consideration, and must be provided for. But power to devise one's self-acquisitions may be sufficient to do justice to those claims.

45. It is customary, subject to the rules of caste-divisions. The North Malabar women, and the women of the Vadakumpuram and Kizhakumpuram at Calicut of course being excepted.

(Signed) B. KAMMARAN NAYAR,
District Munsiff.



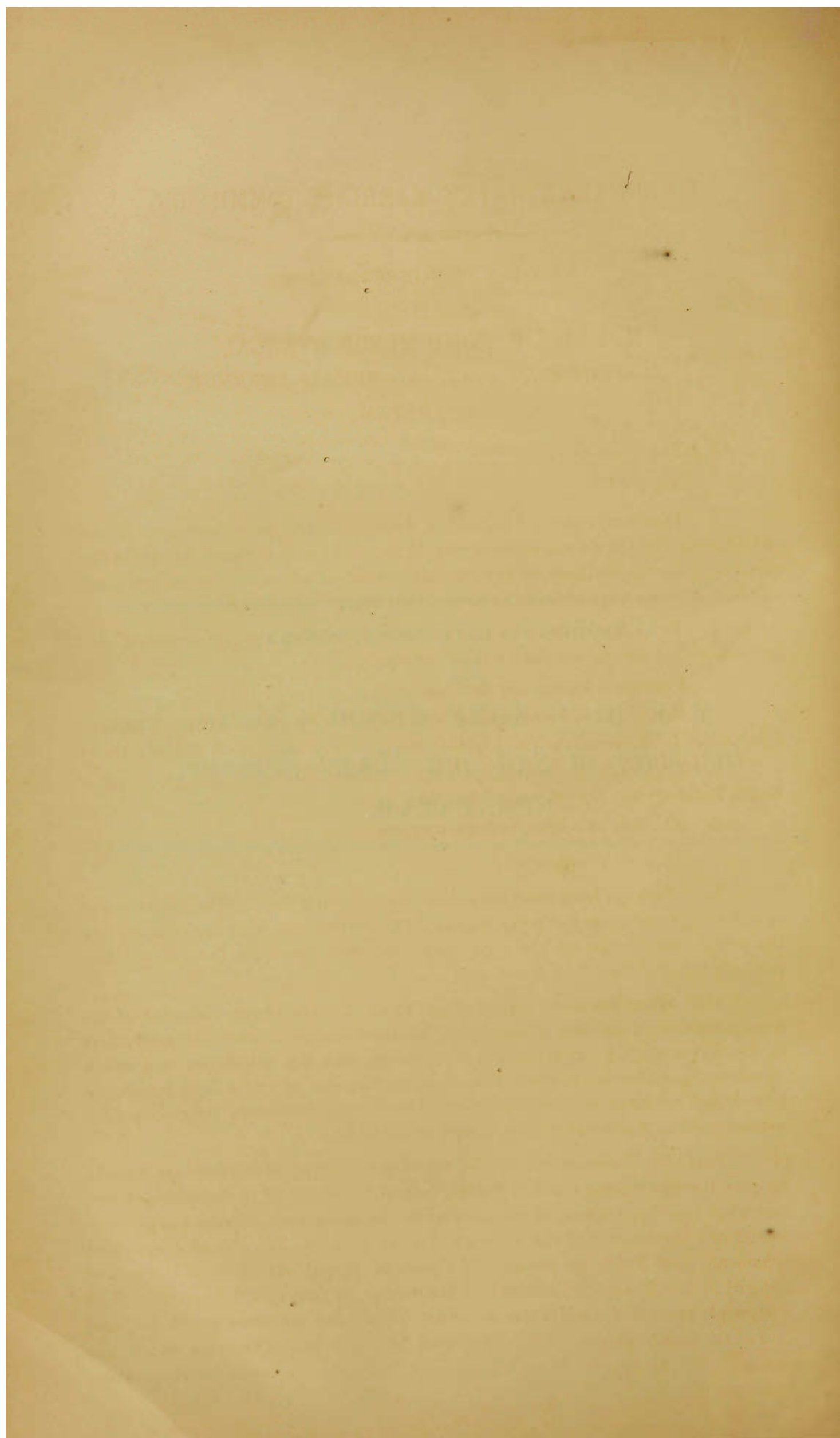
CALICUT:

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

ANSWERS TO INTERROGATORIES

BY

M. R .RY. P. KOMU MENON AVARGAL,
Inspector of Salt and Abkari Revenue,
NEGAPATAM.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. P. KOMU MENON AVARGAL,
INSPECTOR OF SALT AND ABKARI REVENUE,
NEGAPATAM.

1. Yes.

2. No.

3. In several cases it is forbidden. I am unable to specify instances. Nayars of Chârnata division do not intermarry with those of Sudra division. But the differences between the divisions, or the grounds of prohibitions, are so trivial and nominal that, in these days of social progress, they ought to be ignored.

4. Yes. Such persons acting contrary to custom are kept separate, and are not invited for ceremonies by their caste people.

5. I have not known any such instance.

6. Korapuzha is the recognised boundary. But the stern (*sic*) North Malabar commences from the other side of Kôttakatavu, about 3 miles south of Badagara.

7. High caste Nayars of North Malabar form Sambandham with those of South Malabar; but the reverse seldom takes place.

8. No: due, of course, to caste scruples.

9. They very seldom do it.

10. Perhaps from their unfounded fear of losing caste. The Country was in olden days under several petty Rajahs frequently at war with each other; and the prohibition of crossing the river may have been based on the fear of their modesty being outraged by aliens.

11. When the eldest girl is about 10 or 11 years of age, the head of the family convenes a meeting of friends and relations to consult about the celebration of this ceremony. A day is fixed in consultation with the astrologer, in a month considered good for marriages. The ceremony consists of 3 or 4 days feasting of friends and relations, on a somewhat grand scale, with numerous religious performances such as Ashtamangalyam, Kaiyil aridukal &c.

Lots of preliminary ceremonies, too numerous to be mentioned here, have to be gone through during the first 2 days, before the advent of the auspicious hour; and when that hour comes, as pronounced by the astrologer present, the girls are seated in a pandal erected and decorated for the occasion, and a small consecrated ornament called Thâli, run through by a piece of thread, is tied round the neck of the girl by her Manavâlan, assisted by her mother, or father, in the presence of all the people assembled, amidst the rejoicings of all, and the blessings of the aged and of the family deities. This is followed by one or two ceremonies which culminate the ceremony. In several families, Brahmins are invited as Manavâlars;

in some cases higher castemen are employed; and in a few other cases, their own castemen are engaged. Each castepeople have, in fact, their own Manavâlar, and these are, if I may use the term, hired for the occasion. These Manavâlar and Pushpinis are important factors in the ceremony, and have their respective perquisites. As it is, this ceremony is useless, and only tends to ruin the Tarawâd property. Many Kâranavans not unfrequently use it as a pretext to dissipate the Tarawâd property. If this ceremony is altogether postponed to the day of Sambandham, and the present Manavâlar are substituted by the future husbands, it will be something. But even then unless legal sanction is accorded to it, the marriage can be of little utility, either in bestowing a right to maintenance, or inheritance of property.

12. Yes. Manavâlan.

13. It is by no means the custom. As a rule, each girl has her own Manavâlan; but in rare instances one man is engaged for two or more girls as well.

14. No. It has never been the custom. He forfeits his rights with the Tâli-tying ceremony. The theory may be that the women are considered free.

15. No.

16. I do not recollect.

17. Generally not. In a very few divisions, the girls observe this Nambiasan class is one of them, I think.

18. I have heard people say that, in cases of extreme poverty, the mother has the right to do so on Onam festival, but it is never known to have taken place anywhere.

19. Yes, they must; else they are excommunicated. But a few cases of relaxation may be found in Choughat and other places. There is nothing but custom to justify this.

20. It is then Sambandham comes into play. It may be described thus:—

When a young man attains to a marriagable age, his father, or uncle, or mother, looks out for a wife, and, with the approval of the parents or uncle, a girl is selected generally, if possible, from the same caste. An auspicious day is fixed and the young man attends the girl's family house, at night, with a few of his select friends and relations, and after somewhat sumptuous meals, goes through certain formalities. The marriage is thus consummated.

21. Yes. There is some difference. Most of the formalities are dispensed with.

22. There is a slight difference between the two. In South Malabar present of cloth, or money, on the day of marriage, is not observed on all occasions.

The formalities are almost the same throughout North Malabar.

In South Malabar too, they are the same except in some very unimportant details.

23. Such a custom existed for a time; but now it is almost a thing of the past.

24. No. No where. Perhaps the custom may have been sanctioned to check population.

25. Yes.

26. No. The matter of disagreement between wife and husband is, in several cases, discussed by their parents, or their relations, and the result communicated.

27. Yes.

28. No.

29. This cannot be exactly defined. She may be either in her Tarawâd house or husband's.

30. In North Malabar, wives generally live in their husbands' houses. In South Malabar, such cases are innumerable, though not to the same extent as in North Malabar.

31. Not necessarily.

32. I have never heard of such a custom of changing frequently. As a rule, men and women cleave together for life.

33. Yes. He does.

34. He gets his food and raiment and, in a very few cases, his wife's expenses also. No special allowance is paid for work done.

They do cultivate but not for rent. They are not permitted to deal with the surplus as they like, but in a few cases, when they get possession of property, they do so.

35. They do either or both.

36. They do either or both.

37. It is quite true they often use the word, but it has no meaning in law. Generally well-to-do husbands do provide for their wives and children. The same is the case in South Malabar too.

38. Decidedly not. We have been longing for it.

39. I would stand between the two. What I would like to do is this:—

A few of the relatives of both parties as well as some of the respectable neighbours should be invited to attend the marriage; 3 or 4 of them should be selected as witnesses. The bridegroom and bride should declare in the presence of the witnesses and people assembled that they take each other for husband and wife.

This declaration should be signed by both the husband and wife, and by at least 3 witnesses, and should be presented for registration just like decrees and certificates of Civil Courts. All such declaration should be brought under compulsory registration. Some near male relative of the wife may be allowed to present the document for registration. The Registrar's attendance on the ceremonies is altogether unnecessary.

40. The first 3 conditions are not adhered to at present. The fourth is rigidly observed.

41. Under the 1st condition, monogamy is insisted on contrary to Hindu law. I fully realize its objects; but my only doubt is whether our law should militate against the Hindu law. Morals only, and not law, can preserve such principles.

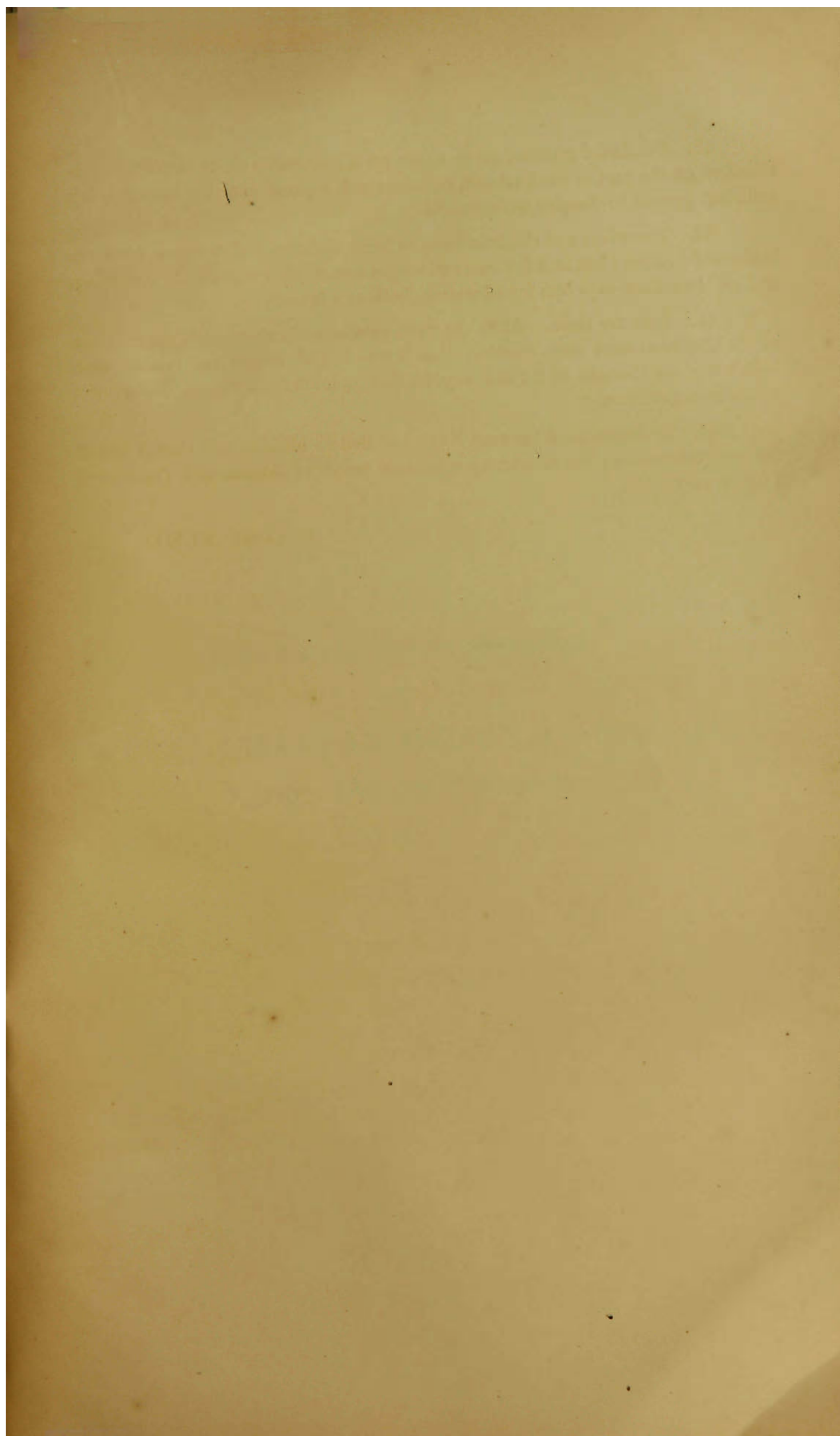
42. Continued misconduct of either party, illtreatment, or intolerable inattention on the part of the husband, or prolonged separation of the husband, is a sufficient ground to dissolve the connection.

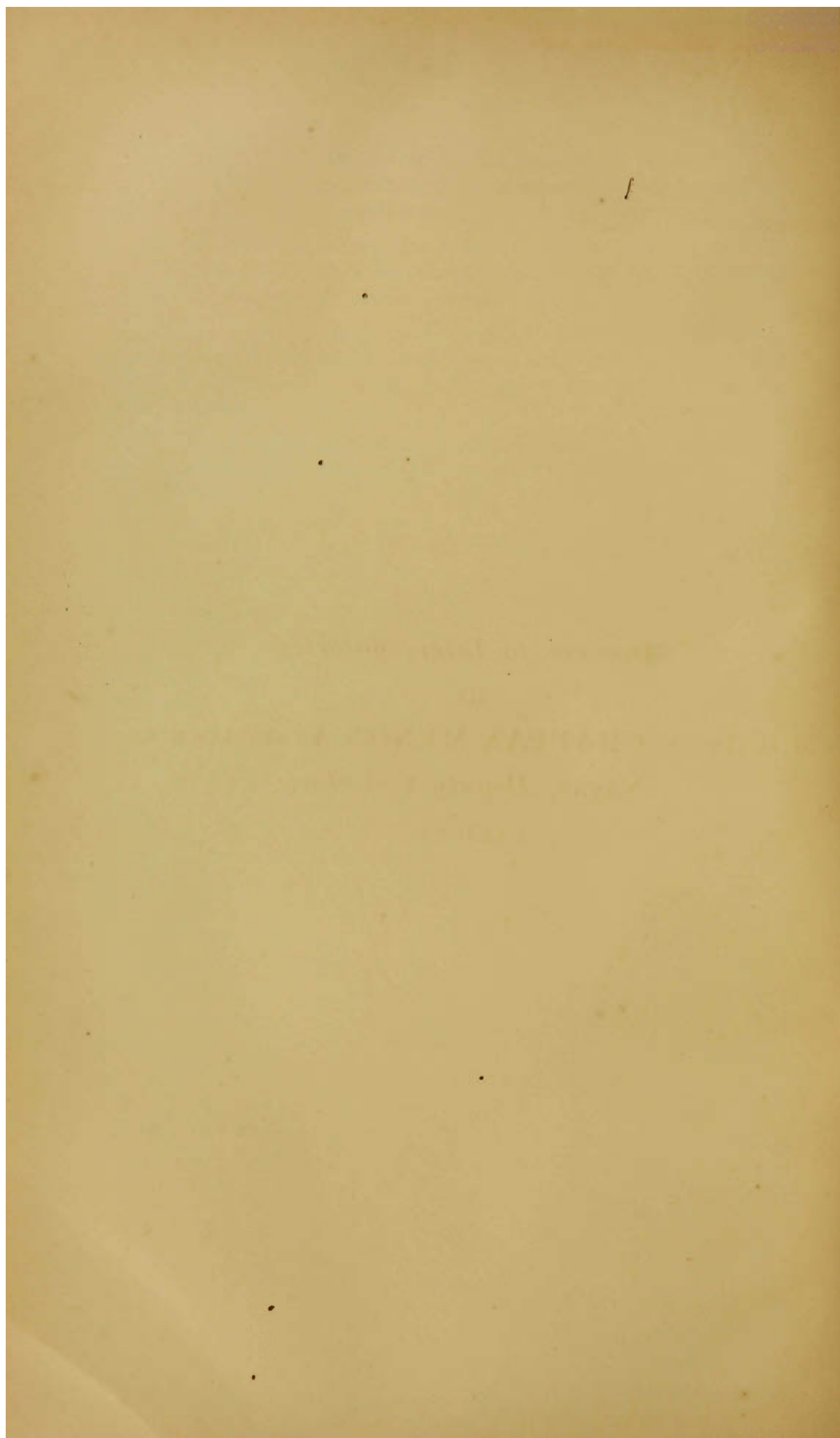
43. The wives and children have no legal right to maintenance from the husbands' families; but in a few cases wives get a small allowance for their clothing, and children their expenses for education, both as a favour.

44. I am for them. As to the right mentioned in clause (e), the majority of the Commissioners may recollect that it was I who fought for this at first, before any one thought of it; and any further opinion from me on the subject would be superfluous.

45. Intermarriages between Nayars of British Malabar and Cochin are of frequent occurrence; but of marriages between people of Malabar and Travancore, I know very little.

P. KOMU MENON.





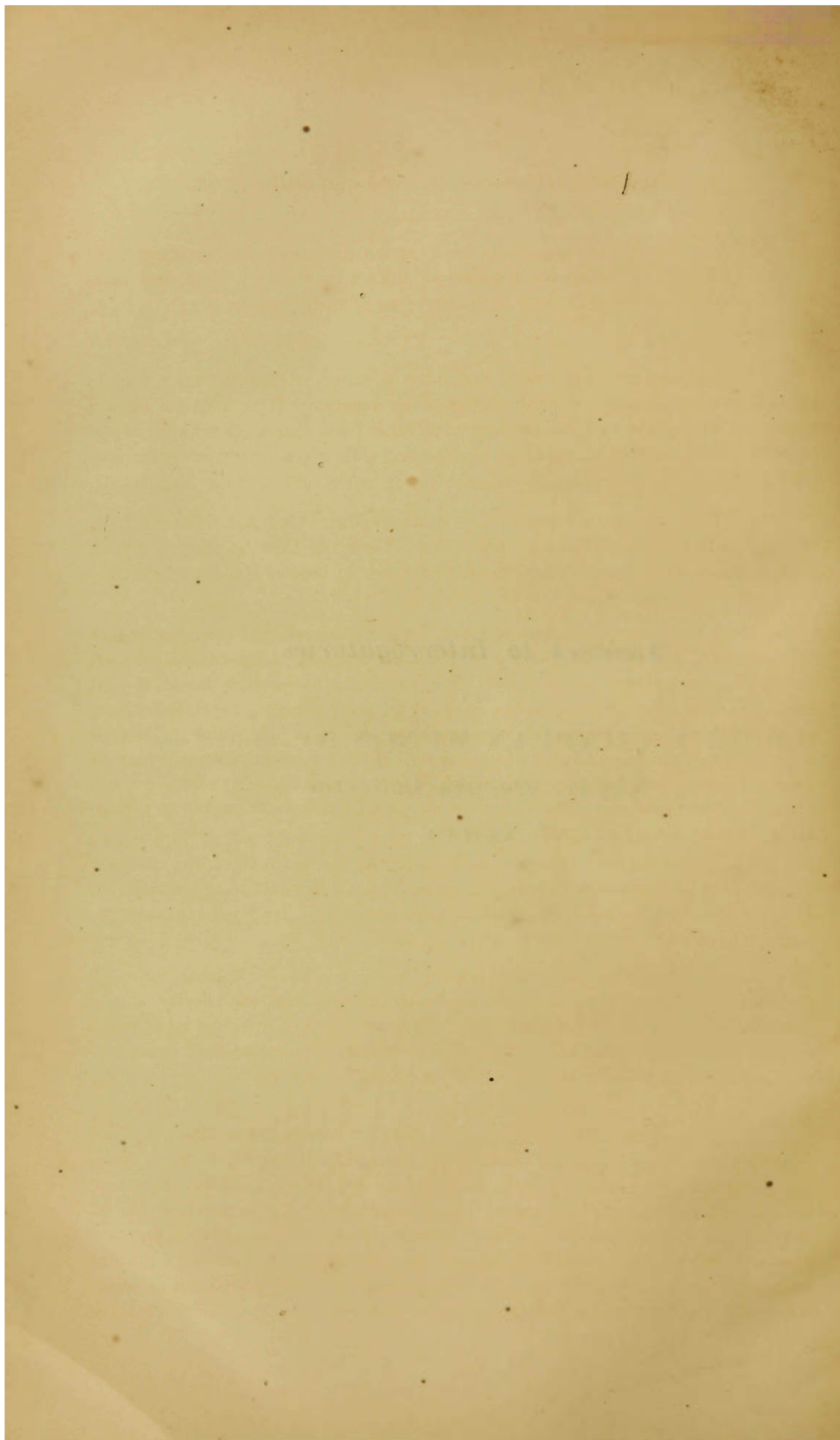
Answers to Interrogatories

BY

M.R.Ry. V. CHAPPAN MENON AVARGAL, B.A.,

Nayar, *Deputy Collector*,

CALICUT.



Answers to Interrogatories put by H. M. Winterbotham Esquire, on behalf of the Malabar Marriage Commission appointed in April 1891.

1. Yes, for men of admittedly high caste. But there are so many Subdivisions of Nayars with such small shades of differences amongst them that marriages are often refused on account of the supposed caste differences.

2. No.

3. Sambandham is altogether forbidden, as a rule, in cases in which dispute exists as to which division of caste is inferior or superior. It is also not formed where the castes are under the control of *different* caste heads. For instance the (ചാർണ) Chârna caste which recognize the Zamorin as their head would not intermarry with the (ശൂദ്രനായർ) sudra Nayars who are under the control of the Nambudiris.

4. Both the man and woman are excommunicated and are debarred from taking part in religious ceremonies or the like. Their life then becomes a burden to them and not infrequently they are induced either to become Muhammadans or to live sometimes immoral lives, through destitution, in towns.

5. I have known instances in which the past misconduct of the parties has been condoned by offer of presents to the castemen and to the caste-Head; but the Sambandham cannot be validated by a Prâyashchittham which would, in that event, have the effect of elevating the status of the party belonging to the lower caste which is not ordinarily permissible in-as-much as the caste distinction is derived from birth and can only end with life, *unless forfeited* under exceptional circumstances I have, however, heard an old saying which, if true, is evidence of a contrary practice in the Southern parts of the District “അച്ഛാ കട്ടിമെൽ നിന്ന അഞ്ചൊട്ട ഇരിച്ചു-ഞാൻ അമ്മക്കു കഞ്ഞി കൊടുക്കട്ടെ.” (Father, please leave the cot so that I may give conjee to my mother.) Here a child asks the father to leave the mother's sick bed in order that the mother may be given food. This would seem to imply that while the woman is prevented from taking food touched by her Sambandhakkâran, sexual intercourse between them is not prohibited!

6. The recognized boundary between North and South Malabar for caste purposes is the Kôrapuzha which was originally the limit of the territories of the Zamorin and his rival, the Kolathiri chief. The prohibition to cross this river which custom still enforces against the women of North Malabar indicates that caste and social usages were moulded to some extent on political considerations.

7. Yes.

8. Yes. But this is rarely done and I have known only two instances in which South Malabar Nayars formed Sambandhams in respectable families in North Malabar. There is no objection, however, that I can see and the two instances mentioned indicate that there is nothing improper in such connections. But as anticipated in the answer to the 6th question, political considerations moulded caste and social practices to some extent and the prohibitions imposed upon North Malabar women (intended apparently to prevent disgrace to them in an enemy's country) to the crossing of the Kôrapuzha (or rather to the proceeding to the South of it to the Zamorin's terri-

tory) tended to prevent all chances of successful alliances being formed. In course of time, such Sambandhams became rare so much so that for want of precedents to quote and the absence of custom to support them, such Sambandhams came to be looked upon as forbidden. It must be observed that the test chiefly applied to determine caste inequalities is by ascertaining whether any Sambandhams have been formed between the families in question or their relatives at some previous period (however remote that may be) and if the answer returned is in the negative, the proposed Sambandham is at once declared ineligible. Thus what was once looked upon as merely undesirable or inexpedient has by lapse of time been considered positively objectionable, although there is nothing in reason to support it.

9. North Malabar women seldom cross to the South of the Kôrapuzha but I have known a few instances in which women of respectable families have done it and I am not aware of their being subjected to penalties on that account.

10. Vide answer to question 6. I think the fear of disgrace to women in an enemy's country (*i. e.* the territory of the Zamorin who was at enmity with the Kolathiri and other Rajas of North Malabar) was the cause of the prohibition and that now under a common Queen-Empress these restrictions have lost their significance.

11. The Tâli-kettu Kalyânam is practically a marriage without being followed by consummation and the songs sung on that auspicious (?) occasion denote that it is intended as a wedding. But the ceremony is performed before a girl attains puberty and hence co-habitation is impracticable at that stage. For this latter purpose, a "sambandham" which means the "joining together" as husband and wife is performed, and this it is which gives the husband (sambandhakkâran) the right to co-habit. The ceremony has been fully described in Mr. Logan's Malabar Manual in which description I agree.

12. The Tâli is tied by

- (1) a man selected from the caste of the girl,
- (2) a man of an admittedly superior caste,
- (3) the mother of the child.

In the case of the 1st, the man is called Manavâlan (മണവാളൻ) which means husband (മണം=wedding)

13. In the case of superior caste men who have to be paid heavy fees for performing the Tâli-tying ceremony, it becomes a matter of difficulty to obtain the services of a separate man for each girl and hence one man is permitted to tie the Tâli on more than one girl at the same time.

14. No. There is no reason (save that the custom is against it) why he should not obtain the right.

15. No, not the least objection to sambandham being formed in the usual style.

16. I have not, so far as I can remember now, known any instance personally, but there is no doubt that such a sambandham may be formed.

17. Girls on whom Tâli is tied by their caste-men (*e. g.* Sudra Nayars—Pallichan—Vattakkattavan ശൂദ്രനായര. പള്ളി ചാൻ-വട്ടക്കാട്ടവൻ) observe pollution on the death of their manavalars (മണവാളന്മാർ)

but in the case of other castes, pollution cannot be observed as the person who ties the Tâli belongs generally to a higher caste.

18. Yes. This custom prevails chiefly amongst the Variyar caste who receive the Tâli consecrated at a temple by an Embrântiri Brahman.

19. Yes. There is nothing but custom and the writings of certain authorities to be pleaded in justification of the practice. It is carried to such an extent that even the *makkatayam* Tiyyas of South Malabar follow it in imitation, as I suppose, of the local usages.

20. Yes. There is generally a proposal to marry coming from the relatives of the bridegroom, and the bride's relatives express their consent and acceptance. An auspicious time is then fixed and at the hour named the bridegroom accompanied by his friends and relatives proceed to the house of the bride, where after a grand dinner, presentation of clothes is made to the bride and the latter is then conducted into the room set apart for her by her female relatives. The presentation of clothes is not invariably done in South Malabar and in the case of Rajahs and other high personages silk clothes and bracelets (പട്ടം പളയം) take the place of the ordinary clothes. The girl is then taken next day or on some other auspicious day to the house of her Sambandhakkâran where further presents are made to her by the latter's relatives.

21. Vide preceding answer. The only difference in the case of a Nambudiri or Pattar is that they are entertained at dinner in a madham (മഠം) instead of in the family-house and that the presentation of clothes does not generally take place. The women also do not live in their Sambandhakkâran's house as they do in the case of other castes.

22. The formalities are the same throughout Malabar in their principle. But in their practical application slight local variations have crept in which do not materially affect the leading principle.

23. No, not at the same time (at least in the present day) although I have often heard it said that it can be done. The ease and facility with which Sambandhams are terminated at the will of either party have, I think, given rise to the impression widely entertained that polyandry existed in Malabar and is lawful.

24. I am unable to quote any authority in support of the prohibition. In olden times when successive waves of immigrants settled in Malabar they had, I think, common wives in view of the small number of women that came with, or were available for, them and as a result of this promiscuous connection the children could not claim specific paternity. This system received encouragement during feudal times when every male capable of bearing arms was employed on military duty and was subjected to considerable restraint in the matter of marriages and this is, in my opinion, the basis of the Marumakkatayam Law and of the practices incidental to it.

25. This may be answered in the affirmative, I think, because so far as I know, no instance has come to notice of a Sambandhakkâran having taken legal proceedings to enforce the continuance of the Sambandham or the restitution of his conjugal rights and if he thought he had a remedy he was likely to have taken steps to vindicate them. From the absence of such suits it may be fairly inferred that the woman is at liberty to terminate the Sambandham at her will and pleasure.

26. The old practice was for the relatives of the outraged party to give intimation of misconduct to the kinsmen of the offending party so that the cause of misconduct might be ascertained. Where a satisfactory explanation or apology is made and accepted a reunion is effected. Otherwise, the relation is supposed to have come to an end.

27. I have known a few instances, but this is an exception and not the rule.

28. In the present state of uncertainty as regards every thing connected with Malabar Law it is difficult to pronounce a satisfactory opinion. But I presume there is nothing to prevent a man having Sambandham in as many houses as he chooses within the circumscribed limits of his means and capacity.

29. Generally in the house of the Sambandhakkâran. But the old practice was for the woman to be visited at her house and this is fast dying out.

30. Yes. Perhaps the woman lives more exclusively in the house of her Sambandhakkâran in North Malabar than does her sister in the South.

31. According to recognized custom the man is not legally bound to support the woman and her children during Sambandham. But I have heard of a recent decision to the contrary in North Malabar where the man's tarwad was declared to be liable to pay her maintenance expenses and it is doubtful to what extent this view will receive support from the High Court. As I said already, no man can say in Malabar with confidence what his law is in such matters. A reasonable law has apparently to be evolved out of the antiquated customs interpreted in the light of modern civilization and enlightenment.

32. It is not the custom to change Sambandham frequently, although it is not pretended that the parties to it cleave together for life, for better or for worse. The public opinion which is rapidly gaining ground is against change and he must be a very bold man who ventures to run counter to it.

33. The Sambandhakkâran feeds the woman and children so long as they live in his house and clothes them and pays for their other expenses whether they live in their own or in his house. In the case of woman belonging to poor families some paddy for maintenance is also paid in exceptional circumstances.

34. All the three questions may be answered in the affirmative. But the nature of the allowance granted and the terms of the lease depend of course on the good feeling existing between the various members of the Tarawad.

35. Anandiravars generally work for their own *Tavazhi* or for themselves and seldom for the benefit of the common Tarawad now-a-days.

36. With their earning the Anandiravars generally support their wife and children and seldom do they hand over their profits to their Karanavan. If there are widowed sisters or nieces the Anandiravars having sympathy with them lend a helping hand to them.

37. There is no such right as Puthrâvakâsam (പുത്രാവകാശം son's share) strictly so called in North Malabar. What the children get during the life-time of their father is called Puthrâvakâsam in contradistinction from their Taravad avakasam or right and generally the former is kept distinct from, and is not allowed to be

merged with, the latter estate. In South Malabar also the same system exists although it is not known by this specific name and the property so obtained is considered to be the self-acquired property of the mother and her children.

38. There is certainly no objection to providing a permissive marriage law for Nayers such as is now proposed for them. But there may be some objections to it in that the self acquisition of a member who comes within the operation of the law will not go to swell his Tarawad estate and enhance its grandeur and reputation, and that in course of time the boasted honor and glory of his Tarawad which was the pride of his ancestors may dwindle and vanish into nothing. Other objections that may be urged by the old generation are

(1.) That a law sanctioned by long usage and which is of divine origin should not be broken with impunity and that the land of Kerala for the prosperity of which special laws have been ordained will fare worse by the change.

(2.) That the Nambudiris and other Brahmans who now freely consort with ladies in aristocratic families will be bound down by rigid rules and that their obligation to maintain their wives and children will discourage them from coming forward to marry. The same result will follow in other families of rank and position.

Of course, the only answer necessary to this is that the law is merely permissive and that no one who does not care for it need accept it for himself.

39. It is inexpedient in the present state of caste feelings and distinctions to insist on the solemnization of marriages in the presence of a Registrar who might probably belong to a different caste and whose presence on the occasion might itself be felt to be an irksome and inconvenient formality. I would, therefore, propose in the interest of the Bill that the customary form be adhered to as much as possible and that the presence of the Registrar be dispensed with at least as a temporary measure. A notice to the nearest Sub Registrar of assurances within one month from the date of marriage to the effect that on such a date a marriage has been concluded at such a place between the parties named and in the presence of three respectable witnesses (to be likewise named in the notice) ought to suffice and it may be safely asserted that the fact of marriage itself is seldom, if ever, likely to be involved in dispute. It might be said, on the other hand, that documents relating to immoveable property are now compulsorily registered before registering officers and that no objection is raised thereto; but a matrimonial matter such as this stands on a different footing and all reasonable facilities ought to be allowed for it. I would, therefore, retain the customary form and make registration, evidence of the marriage.

40. The conditions of a valid marriage such as is proposed differ in the following respects from a Sambandham recognized in practice.

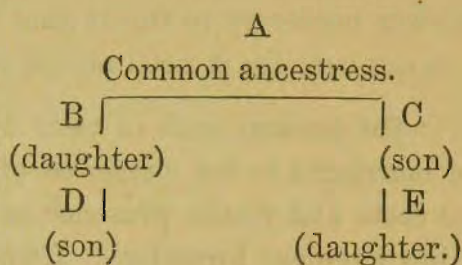
(1) There is at present no legal prohibition to marry whether or not there is already a husband or wife living. The proposed Bill will take away this power which is much to be desired.

(2) The raising of the age of marriage will tend to improve future generations and is very desirable. But for some years to come, the Tâli-tying ceremony which is doubtless a farce will have perhaps to be put up with, I think, to prevent possible excommunications from caste and other social inconveniences.

(3) I would retain the age of 21 for males, but for females 18 is quite enough, I think, as sufficient understanding will have been attained at that age. Save in this respect, the provision is unobjectionable. At present child marriages are permitted, although as a rule the Nayars are better off in this respect than certain other sections of Hindûs.

(4) *Proviso 1.*—This would enable marriages between Nayars and Tiyyars, for instance, which are not permitted at present. I presume, in the present age of progress and individual liberty no legal objection need be maintained. The parties would, however, be surely refused admission into their houses although this is a question which principally has reference to the extent of the forfeiture of their civil rights and as such we need not concern ourselves with it at present.

Proviso 2.—This proviso requires alteration. At present marriages of cousins are considered unobjectionable in Malabar and there is no reason that I can think of (except that of nearness of blood and the consequent degeneration of the progeny) which would justify the proposed inhibition. In the following table the marriage of D with E is perfectly legitimate and as there are numerous subdivisions amongst castes which tend to narrow the field for selection, every unnecessary restriction ought to be removed.



41. The alterations that I would propose have been commented on in the preceding answer.

42. The reasonable grounds for dissolving a sambandham according to social usage are as follows :

- (1) Adultery.
- (2) Loss of caste.
- (3) Refusal to go to the husband's house when called upon to do so, in the case of women who have no objection to leave their homes (i.e. all ladies other than those of the Kovilagams and Stanis).
- (4) Refusal to co-habit with the husband.
- (5) Permanent illness or disease such as to incapacitate the woman for the exercise of conjugal rights.

43. The existing usage as to the maintenance of Nayar wives and their children is as follows :—

The husband feeds, clothes and does every thing necessary for the personal comfort of his wife and children so long as they live with him in his house. But when they return to their tarawad, they are fed at the taraward expense as explained in the answer to Question 33

44. I entirely agree in the principle laid down in this section. The present condition of a Nayar woman is wretched. She has a husband who has no legal responsibility to take care of her. She has an unsympathetic uncle or brother who expects every thing to be done for her by her husband. Between these two the unfortunate woman and children suffer and they ought to have, I think, a recognized legal status with distinct responsibilities and rights.

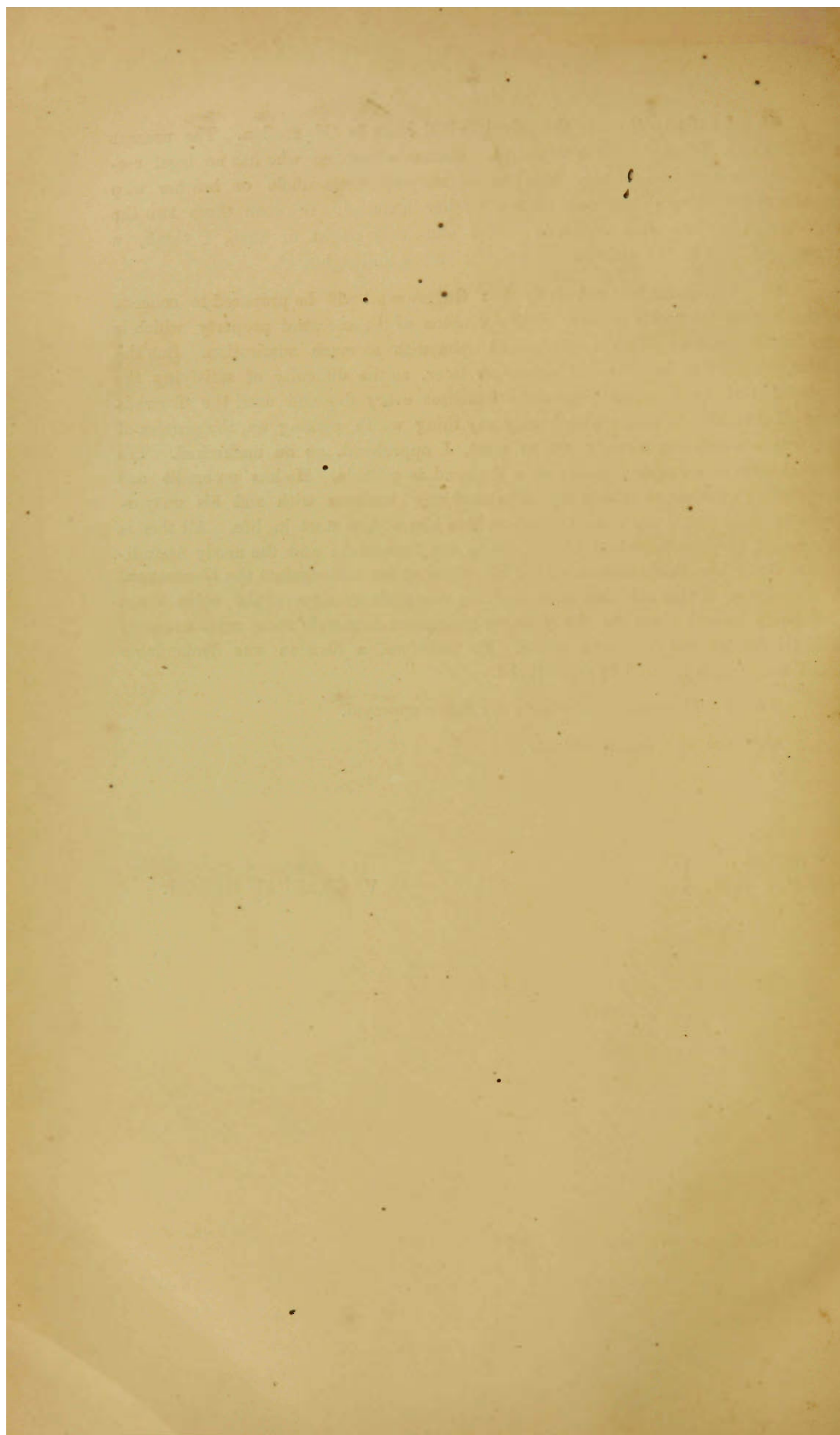
(b) I presume it is not likely that Government will be prepared to concede to the Nayars the power of demanding a division of the ancestral property which is now kept intact and which is now looked upon with so much admiration. But the power will have to be conceded sooner or later, as the difficulty of satisfying the aspirations of the younger generation increases every day and until the Tarwads have all crumbled to pieces with hardly any thing worth picking up, the process of dissolution which has already set in must, I apprehend, go on unchecked. The present state of a Junior member of a Tarawad is pitiable. He has no credit and is entirely powerless to raise a capital to start any business with and his unsympathetic uncle would not raise a finger to give him a fair start in life. All this is subversive of enterprise and of respect to the Karanavan and the needy Anandiravan sinks into debts contracted for his wants or for suits against the Karanavan. A Karanavan is also not that awe-inspiring venerable grandee of the olden times and he is looked upon by the younger generation as merely their representative and trustee of the Tarawad estate. If, therefore, a division was demandable thrift and industry would be encouraged.

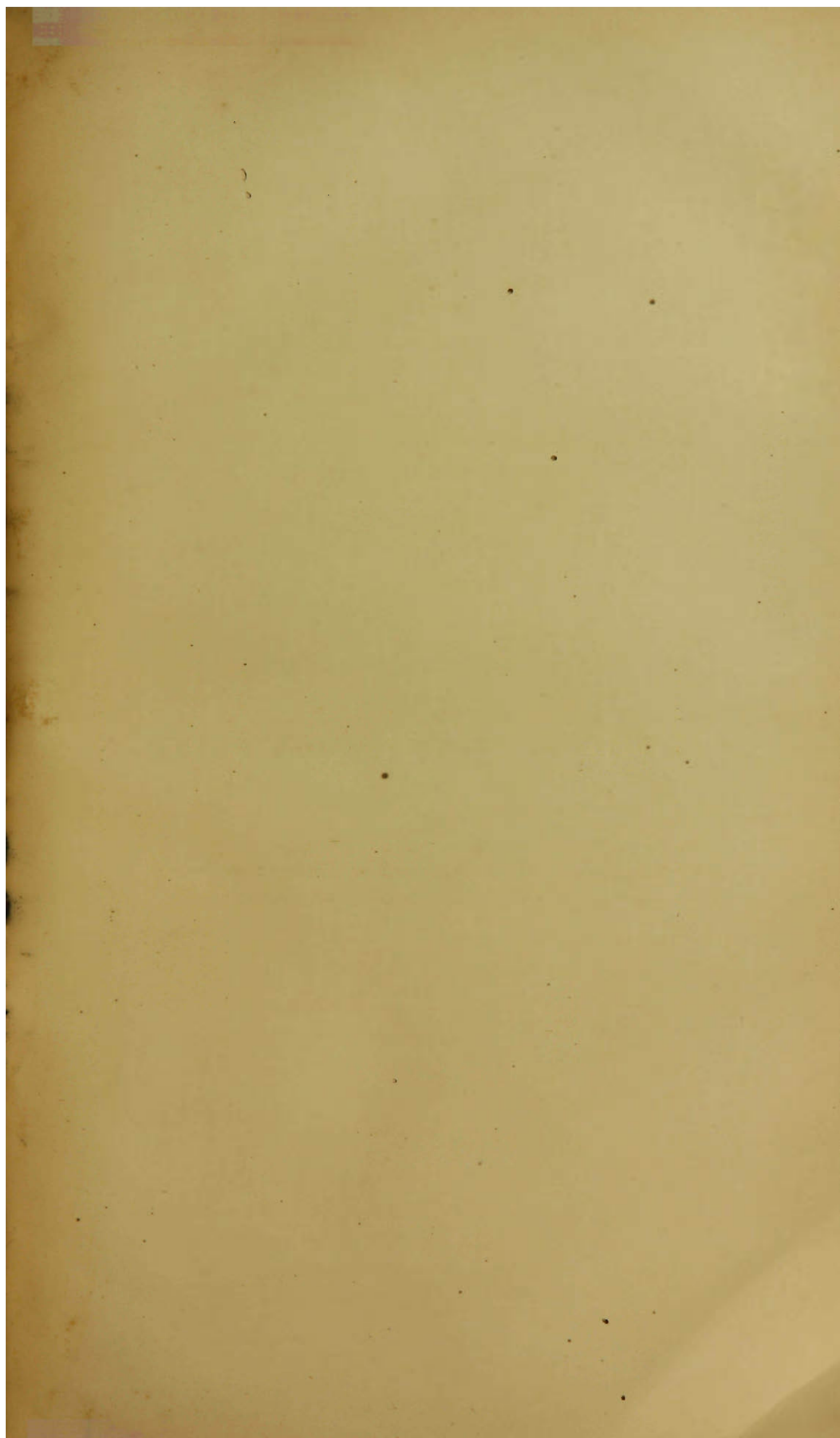
C to F. These provisions have my entire approval.

45. Yes, to a limited extent.

CALICUT,
16th May, 1891. }

V. CHAPPAN MENON.





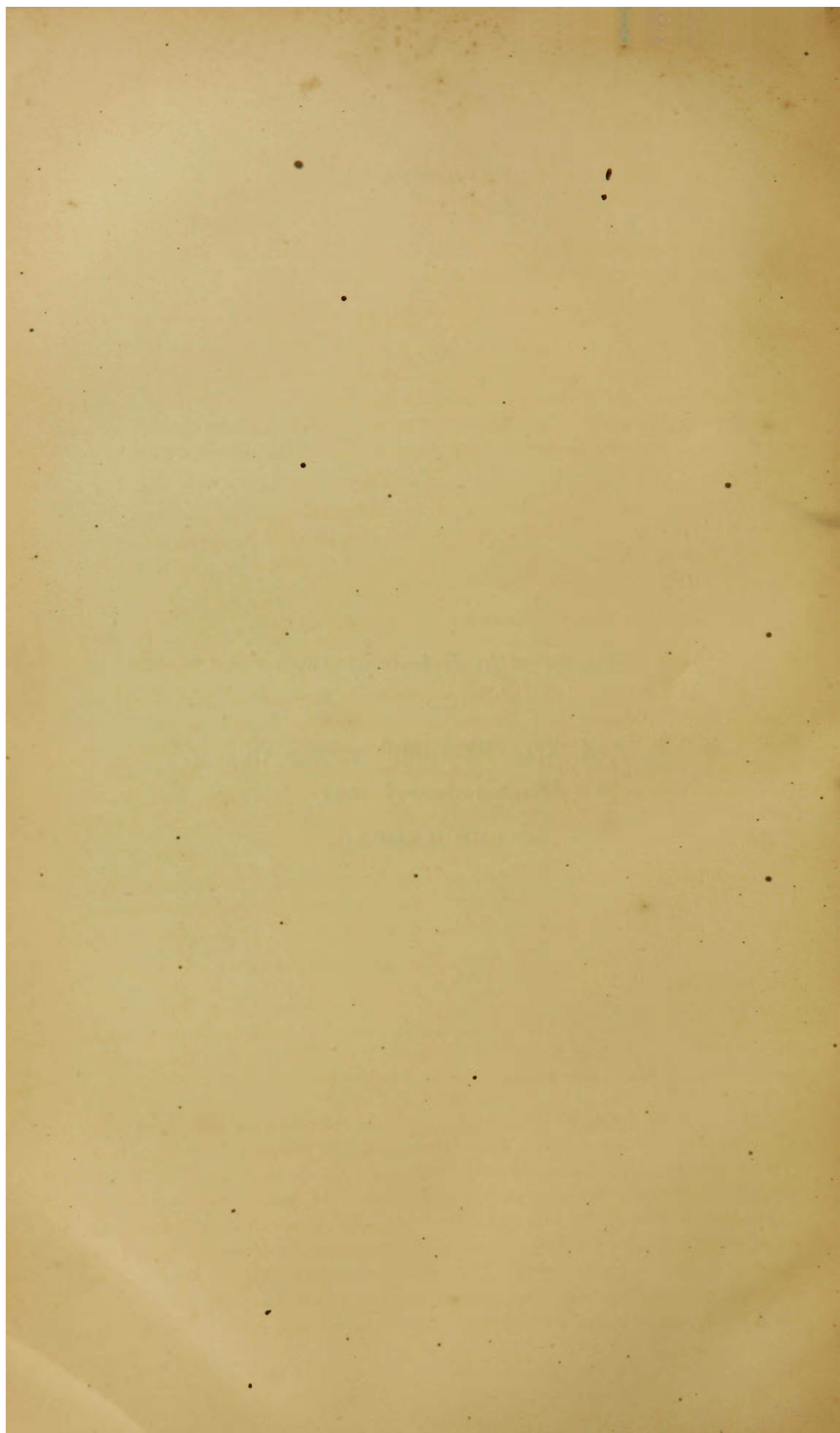
CALICUT:

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

Answers to Interrogatories

BY

M.R.Ry. P. K. KELAPPA KURUP AVARGAL, B.A. B.L.,
High Court Vakil,
TELLICHERRY.



Answers.

1. Amongst the castes referred to in the question, a man of a higher division can have sambandham with a woman of a lower division.

2. A woman of a higher division cannot have sambandham with a man of a lower division.

3. Sambandham is forbidden between Chârna division and Sudra Nair division. So also between Râvâri and Vânian. The reason is, each division claims superiority over the other. The Nair women being allowed sambandham only with men of equal or superior division, no sambandham between the divisions referred to is possible.

4. It subjects the woman concerned to social penalty, and not the man. The woman is degraded. She is not allowed to mix with her caste people in caste ceremonies. None of her caste people in any way associates with her. She is put out of caste and thence forward she lives a degraded life.

5. No Prâyaschitham can render valid such sambandham.

6. The recognised boundary is Korapuzha between Quilandi and Calicut.

7. The Nairs of South Malabar cannot form sambandham with the Nair women of North Malabar. The Nairs of North Malabar can and do form sambandham with the Nair women of South Malabar. Messrs. T. C. Ryru Kurup, the District Registrar of Chingulput, T. C. Govinda Kurup, the Sheristadar Magistrate of Waluwanad Taluq, K. Krishna Kurup, High Court Vakil, T. Kunhi Raman Nair, Judge Travancore High Court, T. V. Anantan Nair, District Munsiff Shernad, and others, all Nairs of North Malabar have sambandham in South Malabar.

8. No Nair of South Malabar can form Sambandham with a Nair woman of North Malabar. I think it is because the Nairs of North Malabar consider themselves to be superior to the Nairs of South Malabar.

9. The Nayar women of North Malabar are prohibited to cross to the South of the Korapuzha.

10. The reason of the prohibition is not clear. I should think the custom originated with the sense on the part of the North Malabar people that the honor of their females will not be safe if they go to the South of the river.

11. "*Tâli kettu Kalyânam*" is the tying of the tâli round the neck of a Nair girl on an auspicious day and hour fixed beforehand. In this part of Malabar, that is Kurumbranad Taluk, Kalyânam generally lasts two days amongst Nairs. Amongst Rajahs it lasts four days. Amongst the Nairs in Kurumbranad on the day fixed and a little before the auspicious hour, a Nambudiri Brahman previously invited, sanctifies with his mantram a potful of water which then becomes known as "*Kalasha kumbham*" (കലശകുമ്പം). The girl is then bathed with the same and is considered to be purified. The girl then being made to sit in a pandal, called *Kalyâna pandal* specially built for the purpose, and in the presence of her relations and

others assembled, makes presents known as Dānam and Muhurtham (ദാനം and മുഹൂർത്തം) to the Nambudiri and astrologer. The Nambudiri then ties tâli round the neck of the girl uttering at the same time certain mantrams. A new cloth called pothûda (പൊതുട or പുതിയപ്പട) is put on the head of the girl. Some rice is also sprinkled over the same. The girl then retires from the pandal. The persons assembled are subsequently feasted. On the second day the girl being again brought to the Pandal a woman of Nambîshan caste (നമ്പിളൻ) known as Pâtamma (പാട്ടമ്മ) recites certain songs. Then the girl is taken away from the Pandal by a man to form sambandham with whom there is no objection according to caste principles. There is feasting on the second day also. The ceremony is then over.

12. The Nambudiri ties tâli amongst the Nairs of Kurumbranad taluk. Amongst the Kadathanad Rajas of the Porlatiri Swaroopam the Beypore Rajas tie tâli. In Kurumbranad he has not any particular name.

13. One and the same man ties tâli to a number of girls at the same time and place.

14. The man who ties the tâli does not thereby obtain a right to cohabit with the girl. What the real significance of the kettu kalyânam is, is not very clear. Now it is considered to be only a formal ceremony which every Nair girl should have performed. One and the same man ties tâli to a number of girls at one and the same time. It is never intended that the man who ties the tâli should have right to cohabit with all, or any, of the girls. One man tying tâli to a number of girls at one and the same time is an indication of the absence of any such intention. The man that ties the tâli is one, and the man that takes the girl from the pandal to a room of the house after the tâli tying is another. And the man that ties the tâli has in most cases a lawfully wedded wife.

15. There is no prohibition to the man that ties the tâli forming Sambandam with the girl. It is only the man that can form Sambandham that ties the tâli.

16. I have never personally known an instance of such Sambandham.

17. So far as I know there is no pollution.

18. So far as I know the girl's mother does at no time tie the tâli.

19. Every maruyakamatam girl must undergo the tâlikettu ceremony before reaching the age of puberty. There is absolutely nothing but custom to be pleaded in justification of this.

20. After tâlikettu kalyânam further formalities are necessary before the connection is recognised by the people. Generally there are formalities before the connection is formed. In some cases, of course not many, a female is impregnated, and then her relatives question her and she has to give out who it is that has done it. And unless the man comes forward and acknowledges the fact publicly, and then attends to all the formalities that are necessary on the occasion of forming a Sambandham, the woman is put out of caste. This clandestine connection even though subsequently acknowledged, is considered to be of a degrading character and the woman's conduct is viewed with much disfavour. The Sambandham only dates from the time of the society recognising it. The formalities are these. There is examination of the horoscopes of the man and the woman. If the match is found

to be suitable from the result of the examination, a day is fixed for the sambandham. The man with a number of persons goes to the house of the woman in the night time. The party is received in the woman's house where her relations and others invited have assembled. The woman is taken to the central room in the house. Money presents known as Dânam and Muhurtham are given to the Brahmans assembled. And then in the presence of the persons assembled the man gives a number of new cloths, the number varying according to the position in life of the man, but not less than four, with some rupees tied to one of them, and the woman accepts the same. Then there is feasting of all the persons assembled. From this day forward dates the Sambandham.

21. I have no experience of a Sambandham referred to in the question. I am therefore not in a position to say anything of the same.

22. So far as I know the formalities attending Sambandham are practically the same throughout North Malabar. There is some difference in the formalities between North and South Malabar. In North Malabar, on the next morning of the date of Sambandham, the woman is taken by the man with him to his house. She remains with him in his house, till his death, or till the Sambandham is otherwise dissolved. In South Malabar the wife remains in her own house, and there she is visited by the husband.

23. A woman in North Malabar cannot certainly have sambandham with as many men as she pleases at the same time. In some part of South Malabar I have heard there is the practice of a woman being kept by several men. I do not think the connection can be called sambandham. Of course there are castes in other countries also with similar practice.

24. I am not aware of any written authority containing the prohibition referred to. There is the custom prohibiting it.

25. If a woman wishes to terminate the sambandham she can do so. No doubt, if the husband is a well-to-do man, compulsion would be brought to bear on her by her relations to stick to the sambandham. But she has the power to do it. And her rights in her Tarwad are in no way interfered with. I have known instances of the termination by the women of sambandham. A certain man was given up on account of his drunken, and other irregular, habits.

26. No sort of formality is necessary to dissolve the connection. The intention expressed to the man, and conduct subsequent, in accordance with such intention, are alone sufficient.

27. A man can have Sambandham in more houses than one at the same time. I know several such instances.

28. There is nothing to prevent a man if he chooses, to have Sambandham in more houses than one. No doubt his relations would not like it, because it requires great expense. But they cannot prevent it.

29. In North Malabar during Sambandham the woman in the majority of cases sleeps and takes meals in the husband's house. In the Kovilagams, or the houses of the Rajas, the ladies remain in their own houses. They never go to their husbands' houses. The husbands visit the ladies in the Kovilagams. Also in the case of the Sambandhams of the Brahmans, such as Nambudiris and Pattars, the women remain

in their own house. In South Malabar in the majority of cases the women sleep and take meals in their own houses. When the husbands on account of their holding any Government appointment or other circumstances, live away from the Tarwad house their wives live with and are maintained by them.

30. The answer to this question is contained in my answer to the question 29.

31. According to the recognised custom in North Malabar the man should support the woman and her children during Sambandham except in the cases of the Sambandham of the ladies of the Raja's Kovilagams, and also those who have Sambandham with Nambudiris and Pattars. In the last mentioned cases some presents are made to the men. In South Malabar the women are fed in their own houses. Her clothing, and other expense, are met by the husband.

32. The custom is not to change "Sambandham" frequently. The rule is for one man and one woman to cleave together for life. Of course there are departures from the rule.

33. If a woman lives with her Sambandhakâran in his house, and bears him children, he certainly feeds and clothes them. The woman, and the children born of the man, are not maintained by the Tarwad so long as they live in his house. The man would not receive any thing from the woman's Tarwad, towards the maintenance of the woman and her children.

34. If an anandravan works for the Tarwad no allowance as such is made to him by the Karnavan. To work for the Tarwad is considered to be a duty of an anandravan without regard to any allowance from the Tarwad. Of course he gets his maintenance in the Tarwad house, which he would get, even without working.

I have not known instances in which an anandravan cultivates Tarwad land for a rent except when there is a lease of the land to him. Instances of such lease are very common. In the case of leases the anandravans have to pay only the stipulated rent. The surplus is taken by them.

35. Anandravans working for the Tarwad, without any gain to themselves exclusively, is very rare. In some instances an anandravan is left with the management of a part of a Tarwad Estate or an anandravan is deputed to do some special work. In either case he tries to make some profit out of it to himself exclusively. When the anandravans make earnings without the assistance of the Tarwad, certainly those earnings are their exclusive property. They do not give them to the Tarwad. There is a large number of anandravans who neither work for the Tarwad nor for themselves. They spend their time most unprofitably. They get their bare maintenance from the Tarwad. There is no capital with them. They are not given the chance to make a start. They are scarcely educated by the Karnavans. Some of them speculate on the chance of their becoming the Karnavans when they can have the control of all the income of the Tarwad property. An anandravan of a well-to-do Tarwad once remarked in my presence that he would see that some provision is made for his wife and children only on his becoming the Karnavan—of course the anandravan alluded to, has no separate property of his own.

36. Handing over the earnings of the anandravans to the Karnavans is very rare. It does not take place at all when there are numerous members in the Tarwad. The reason is clear. When the earnings go to the hands of the Karnavan

they are considered to be Tarwad property. And the man that made them has no exclusive hold on the same. In North Malabar the wife and children are supported by the husband, or husband's Tarwad.

37. പുത്രാവകാശം (Putrâvakâsam) in the sense the children are to inherit the father's property after his death, there is none in North Malabar either amongst the Nairs or the Marumakatayam Tiyars. But generally the father during his lifetime gives properties (of course properties which he can give by his exclusive right to the property) to his children, which are called putrâvakâsam properties. These properties are treated as joint properties among the children and the descendants from the female. The senior male member for the time being looks after them. In fact the properties so far as the children and the descendants referred to are concerned are looked upon as Tarwad properties. The main Tarwad does not claim these properties so long as there is any issue of the man that gave the properties or any one descended from a female member among the children in the Marumakatayam line.

There are instances in South Malabar also in which fathers gave properties to their children.

38. I do not find the slightest objection to providing a permissive marriage law for the Nairs. From my answers to some of the questions that have preceded, at any rate so far as North Malabar is concerned, it is clear that all the main incidents that are necessary to constitute a valid marriage are present in the case of North Malabar marriages. I recently presided over a public meeting held in Payyoli a very conservative part of the district. A large number attended the meeting. And I was agreeably surprised to find that no one person present at the meeting disapproved of the principle of the Hon'ble Mr. C. Sankaren Nair's bill.

39. I would retain the customary form of marriage and make registration evidence of its legal recognition. No one will deny that there is a customary form of marriage all over Malabar. The people are reconciled to it. But the institution is imperfect in as much as the law does not recognise the same. If that imperfection is removed, in other words, if the institution is so improved as to have the system recognised by law also, all that we want has been obtained. The imperfection would be removed by adopting registration as evidence of the legal recognition of the customary form of marriage. A religious idea is also mixed with the system that now obtains and there are also religious ceremonies now performed. Giving of dânam and muhurtham to a chosen Brahman just before the giving of cloths by the husband to the wife in the case of *Pudamuri* ceremony is done under the idea that the same is necessary to secure the prosperity of the married couple in this world and the world to come. Registration is then necessary as unimpeachable evidence of the same. Else false claim would be brought; there would be doubts and difficulties in the case of honest claims. Annoyance would also be caused to honest persons. The other form is clearly a foreign institution. It will be some time before an appreciable section of the community would reconcile themselves to the same. The matter is purely secular. The introduction of the same would also indicate that there is no marriage system at all at present, or the system that now obtains is so thoroughly imperfect that it cannot be in any way adopted. In either case it has the effect of making the people view the new system to be introduced with disfavor. And the people being very conservative in these matters, they would more readily take to additions and improvements to the existing institutions than give them entirely up, and have

new and foreign institutions transplanted in their midst. There is also the further circumstance of the Registrar being a Christian, a Tiyan or a Musulman before whom as the chief functionary in the affair, the Nairs would be reluctant to have their marriages celebrated.

40. *Clause (1)* So far as the Sambandham is concerned, a man can take as many wives as he pleases.

(2) For the Sambandham, there is no age restriction. Persons of any age are allied to each other.

(3) When persons form Sambandham, consent of the legal guardian is generally obtained whatever be the age of such persons. But it is not indispensable at any time.

(4) This condition simply follows the existing practice.

1st Proviso. This Proviso introduces a revolution in the existing practice. It is not known whether the Tiyars that follow marumakatayam system of inheritance would come under the marumakatayam Hindus. Sambandham is entirely forbidden between the Tiyars and the Nairs. As I said in my answer to the question 3, the Nair woman is allowed Sambandham with a man of equal or superior division only.

2nd Proviso. There is also considerable difference between the conditions in this proviso and the Sambandham. The members of a Tarwad are prohibited from forming Sambandham between each other, however remote the relationship may be. In Tarwads in which there are numerous members, the relationship is very remote. For instance, there are members in my Tarwad whose common ancestor is more remote than great great-grandmother. Also Sambandham is forbidden between persons of the same Vamsham though they are of different Tarwads.

41. *2nd Condition.* I would reduce the age of the woman to thirteen. There is difficulty in getting husbands when the age of the female is a little advanced.

I would have the first proviso to the condition 4 in the following form.

"No such law or custom other than one relating to consanguinity or affinity shall prevent them from marrying provided also the parties belong to a caste or castes the members of which are allowed to mess together according to the present social rules." In the absence of a restriction contained in the latter part, a Nair woman may marry a Tiyan who according to the present practice cannot enter a Nair house without polluting it. When a Nair woman marries a Tiyan he can have privileges which he now has not. It would have the effect of creating many difficulties, causing annoyance and wounding the feelings of many persons.

42. Reasonable grounds for dissolving a Sambandham are

- (1) Losing of caste by either party.
- (2) Either party having incurable disease.
- (3) Adultery on the part of the wife.
- (4) Desertion for a long time either by the husband or the wife.
- (5) Continued disobedience on the part of the wife.
- (6) Incapacity on the part of the husband to maintain the wife.

43. In North Malabar the Nair wives and their children are maintained by the husband, or the husband's Tarwad. In South Malabar except in the cases of persons whose occupations make them stay away from the Tarwad house, the wives remain in their own houses and are fed there. The clothing and other expense are provided for by the husband.

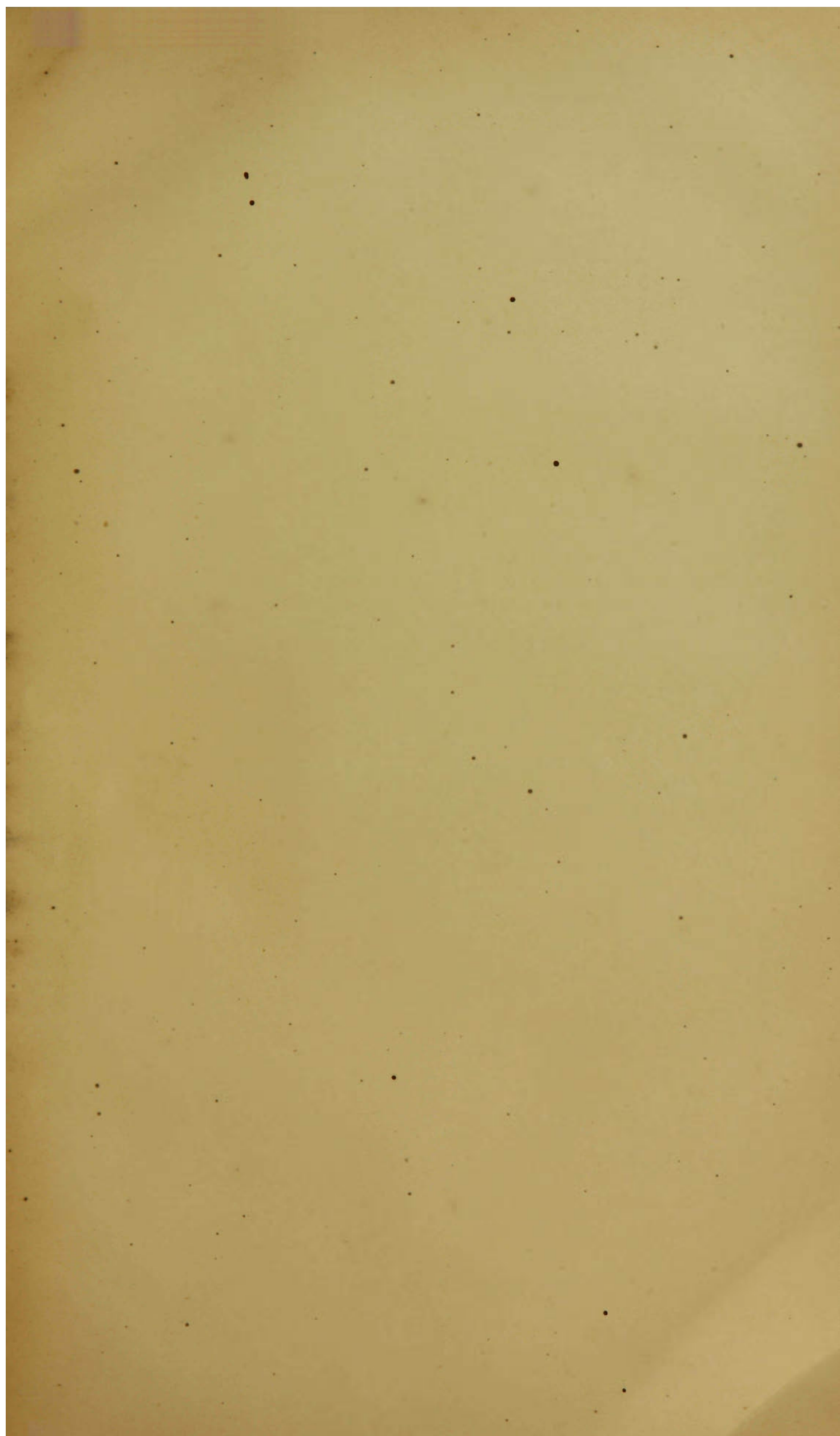
44. I quite approve of the provisions contained in clauses *a*, *b*, and *d* to *f*. The provision in clause *c* does not in my opinion go far enough. I would have that the wife shall forfeit her right to the legal guardianship of the children if she loses her caste. Becoming a convert to another religion is one ground of losing caste. There are other grounds also for the wife to lose caste.

I find no provision in respect of the right of divorce. It cannot be that no provision is intended in the law contemplated. The right of divorce is as necessary a provision in a marriage law, as a provision as to solemnisation of marriage. And every facility should be offered for effecting a divorce when it is desirable in the interest of both the parties. We see that in England also the subject of facilitating the effecting of divorce is being warmly discussed. In Scotland divorce is obtained with less difficulty than it is in England. And the Scotch law as to divorce is viewed with favour. Resort to court, and obtaining divorce from court, would be attended with difficulties and cause annoyance. At the same time divorce is not to be granted on silly or capricious grounds. In the course of a conversation with Mr. A. C. Kannan Nambiar, the District Munsiff of Badagara, he suggested to me a method of effecting divorce and I entirely agree in the suggestion. It is this. When either of the parties wants a divorce, a written notice signed, stating also the reasons for the course intended to be taken, is to be given to the other party. The notice is to be signed also by two of the relatives of the person that gives the notice, and by two respectable witnesses. A copy of the notice is to be sent to the office of the Sub-Registrar where the marriage has been registered, to be stuck up on the wall of the same. A period of six months is to be allowed to expire. If in the course of the same, there is no reconciliation and changing of the mind, the divorce is to be absolute. The method mentioned appears to me to be attended with sufficient coolness and deliberation. There is sufficient opportunity allowed for reconciliation also.

45. Sambandham is customary between the Nairs in British Malabar and those living in Cochin and Travancore.

(Signed) P. K. KELAPPA KURUP.





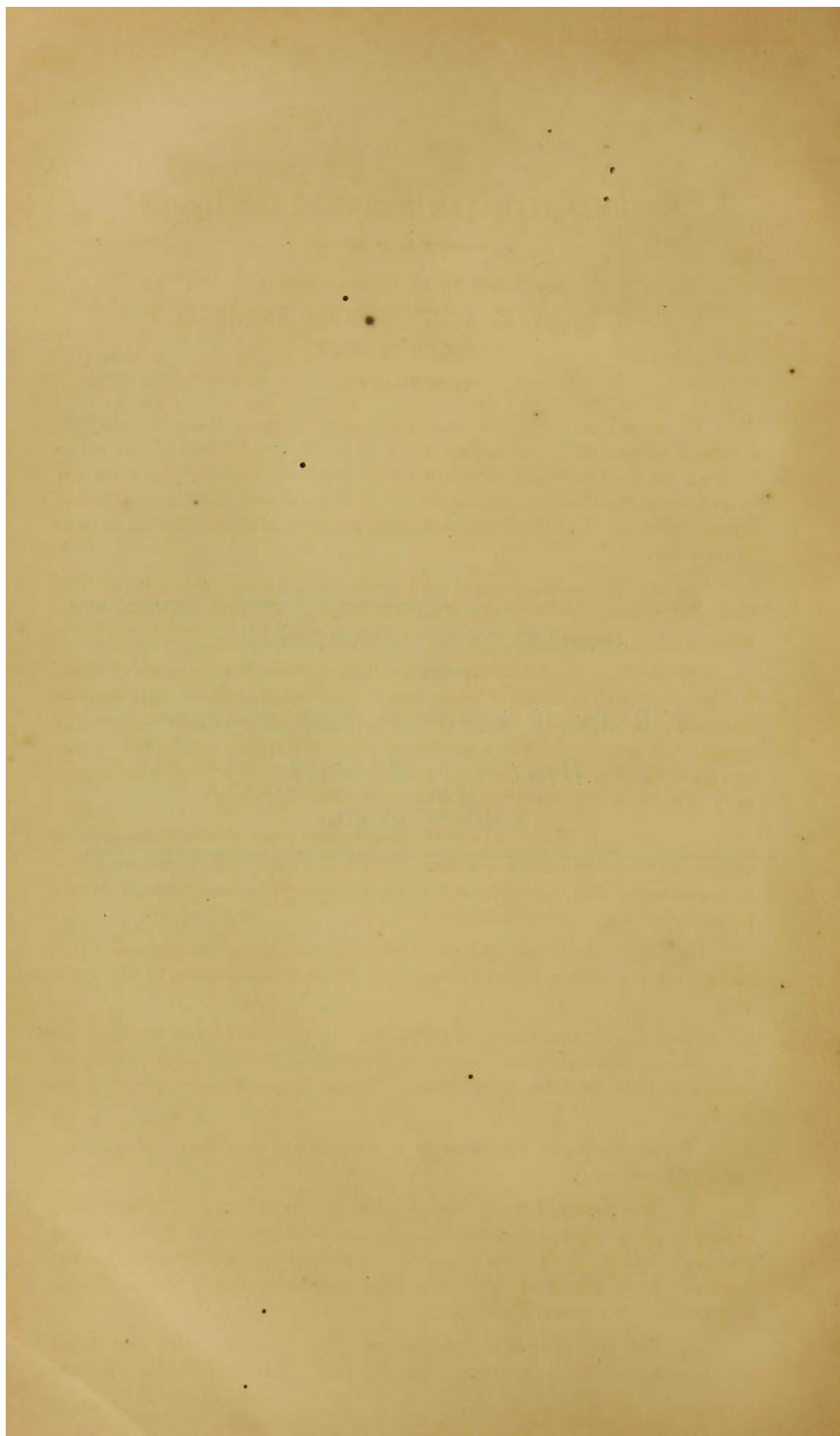
CALICUT:

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

ANSWERS TO INTERROGATORIES

BY

M. R .RY. U. ACHUTAN NAIR, AVARGAL,
District Munsif,
NEDUNGANAD.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

M. R. RY. U. ACHUTAN NAIR AVARGAL,

DISTRICT MUNSIF,

NEDUNGANÂD.

1. Among the Nayars and the higher castes following Marumakkathâyam, a man of a higher division, the superiority of which is recognized by the other divisions, can have Sambandham with a woman of a lower division. But there can be no Sambandham between divisions which, though different, stand upon a footing of equality, or one of which though comparatively superior is not admitted to be so by the other.

2. No. But in some parts of the Ponnani Taluk a woman of a higher division is allowed to consort with a man of a lower division, when the inferiority of the latter is not so marked.

3. A Nayar shall not form Sambandham in a division the touch of which will pollute him, though men of higher castes than Nayars can have Sambandham in any division of Nayars though the touch of the latter will pollute them. A woman shall not consort with a man whose touch will pollute her, or with a man of a lower division, or of a division equal but different, or of a division the superiority of which is questioned by the division to which she belongs.

A man of the Chârnata (ചാർനത) class cannot have Sambandham with a woman of the Sudra class and a man of the Sudra class with a woman of the Chârnata class. But in some parts Sudra men are found to consort with Chârnata females while the contrary is not found anywhere.

4. The woman and the children born during the continuance of that Sambandham are not admitted to mess with people of the division to which she belongs.

5. Such Sambandhams are not validated by a Prâyashchitham, but there are instances in which after its dissolution, by death of the man or otherwise, the woman and her children were restored to the Tarawâd and admitted to its privileges.

6. Korapuzha is the boundary between North and South Malabar for caste purposes.

7. The Nayars of South Malabar (the Nayars of Polanad (Calicut) being excepted) are not allowed to form Sambandham with women of North Malabar even if the former belong to the same or to an admittedly superior division. But Nayars of North Malabar are allowed to have Sambandham with women of equal or lower division in South Malabar.

8. The Nayars of North Malabar consider themselves more martial and their women more chaste, and tax the men of South Malabar with cowardice and

their women with dissolute course of life. They also seem to imagine that the caste rules are less rigidly enforced in South Malabar, and view Sambandham by men of South Malabar as not honourable. This is the only objection so far as I know.

9. It is said that the Nayar women of North Malabar if they cross to the South of Korapuzha will forfeit their castes. There are however instances in which they have crossed to the South without such forfeiture of caste. The objection is unmeaning as women of castes superior and inferior to Nayars cross to this side of the river. There are some who say that the prohibition is confined to the crossing of the river, and hope to evade it by taking other routes to South Malabar.

10. The country to the South and North of Korapuzha (Polanâd and Kurumbranad) belonged in ancient times to different rulers, Porlathiri Raja and Kurumbiâtri Raja. The Zamorin conquered Porlathiri and succeeded to the sovereignty of Polanâd. The defeated Raja took refuge at the Court of Kolathiri Raja (Cherakal) who made him Raja of Kartanâd. The Raja of Kurumbranad was a vassal of Cherakal Raja whose dominions nominally extended from Korapuzha on the south as far as Tulunâd on the north. The Zamorin subsequently extended his conquests to the north as far as Quilandy and to the south as far as Cochin. The variance between Kolathiri and Nediyrupu (Zamorin) Rajas was the cause of this prohibition. The Mohamedan invasion is not the cause as supposed by some, for Tippu Sultan first came to North Malabar and then overran the country as far as Trevandrum.

11. (1) The first ceremony in Tâli Kettu Kalyânam is called Ashta Mangaliam which takes place about 3 days before Tâli Kettu. It corresponds to Vyraha Deeksha. The girls are placed in the room decorated for that purpose and are not allowed to go out of it as they like.

(2) The next ceremony is the chanting of certain songs by a Brahmini (Nambiassan's female). This takes place a day before the Tâli Kettu and ends with the Tâli Kettu.

(3) (ആദിത്യനെ തൊഴിക്കുക) Worshipping the sun.

(4) The bringing of Jasmine (മുല്ലകൊണ്ടുവരിക).

(5) The tying of Tâli in an auspicious hour. The manavâlans take their meals in a different house and come to the girl's house to tie the Tâli.

(6) The girl shall not bathe for 3 days, and on the fourth day they bathe and come in a procession from the tank.

These are important features.

12. Tirumulpâds (Kshatria), Elayads, Nedungadis, Nayars of Kiriya caste and Enangan (എന്നങ്ങൻ—a member of the same clan), tie the Tâli according to the custom of the division to which the girl belongs. The person who ties the Tâli is called Manavâlan. Remuneration is paid to Tirumulpâd, Elayad and Nedungadis for Tâli tying.

13. Tâli is tied to a number of girls at the same time and place by the same man when he happens to be a Tirumulpâd or Elayad. It is difficult and expensive to get as many Tirumulpâds or Elayads as there are girls. Sometimes

the Tirumulpâd or Elayad who tied Tâli to the mother on a former occasion, ties Tâli to the daughter at a subsequent occasion.

14. The man who ties the Tâli obtains thereby no right to cohabit with the girl. Generally no rich and respectable man, whom the parents or uncle of the girl wish to have as Sambandhakâran, will condescend to tie Tâli. In some cases the girl may be an infant and the man who ties Tâli may be poor, ugly, or old.

15. There is no prohibition to his afterwards forming Sambandham.

16. I think I can point out instances.

17. There is pollution to the girl when the man who tied the Tâli is a member of her division but not if he is a Tirumulpâd, Elayad or Nedungadi. All divisions for which the custom is to have the Tâli tied by Enangan recognize this pollution. The Sudra class for instance.

18. Yes. When the girl is a baby, or when Enangan or others could not be had. The practice of tâli being tied by the girl's mother in the presence of Trikkarappan (തൃക്കരപ്പൻ an idol) on the Onam day in the month of Chingam without further ceremony, is resorted to in some rare cases in some parts.

19. Every girl must undergo this ceremony. In this respect we follow the other Hindus, but it is deprived of its solemn and binding character by the subsequent procedure sanctioned by custom.

20. A formal proposal and acceptance of a Sambandham are necessary.

The man, or his relatives or guardians, propose to the guardians and parents of the girl, or the latter to the former. When accepted, a day is fixed, in the evening of which the man accompanied by a number of friends and relations come to the girl's house. A banquet is given by the girl's family to the persons assembled and presents of cloths by the man, and distribution of betel leaves take place. When the man is of a high position or social status, the girl is taken to his house escorted by his servants and relatives of the girl. Present of cloths, silk and bracelets are made to the girl, and cloths to the persons who followed her.

21. The formalities are the same but observed on a very small scale.

22. The Sambandhams in North Malabar are celebrated generally on a grander and more expensive scale than in South Malabar. I cannot say whether they are the same throughout North Malabar. But my information is that they are the same. In South Malabar they are different in different parts. In some parts the man makes a present of cloths to the girl and this is the symbol of Sambandham. In other parts no such present is made for some days or months.

23. She cannot have, though the practice had existed in some places years before.

24. There is no prohibition but the practice is considered degrading.

25. She can terminate the Sambandham. But if she is completely under the control of her guardians who are in favor of the Sambandham, she finds it difficult to throw it off. It is in such cases that elopement, suicide &c., occur.

26. There is no formality. The man is told or informed not to come hereafter.

27. He can. I know men who have four or more Sambandhams at the same time.

28. There is nothing to prevent it. But if the girl belongs to a respectable house they will dissolve his Sambandham if he forms a second Sambandham in another house.

29. The woman sleeps and takes meals in her own house while she lives there, or in the man's house while living with him.

30. In North Malabar the woman almost invariably lives with the man.

31. While the woman and children live in their Tarawâd house the man is required to supply them with oil and clothing. He may give them jewels and other property if he likes or if he is able to do so. But if they live with him, or in his house, he is also required to supply them with meals in addition.

32. Generally one man and woman cleave together for life; but there are numerous instances in which this is not the case.

33. He does feed and clothe them.

34. There is no allowance made to the Anandaravan by the Kâranavan. Anandaravans cultivate Tarawâd lands for a rent. They can deal with the surplus as they like.

35. Anandaravans generally try to earn something for themselves and not for the tarawâd.

36. Anandaravans do support their wife and children with their earnings. In some rare cases when the Kâranavan happens to be a member of the Anandaravans' branch, the latter hand over their earnings to the former for the exclusive use of the branch to which they belong.

37. The word Puthrâvakâsam is used in North Malabar. It is applied to gifts made by the fathers inter vivôs. There is nothing which the sons can claim as a matter of right after their father's death. Gifts by fathers to the sons are more frequent and more numerous in North Malabar than in South Malabar, and consequently the word Puthrâvakâsam is generally used there. Gifts by the fathers to the sons are very frequent in South Malabar also.

38. There is no objection.

39. I am in favour of a form which is more impressive and solemn. The customary form is just as good as the other.

40. (1). This is not always observed in the Sambandham now in practice. If the Sambandhakâren is a rich man he is admitted even if he has another Sambandham existing.

(2). Sambandham is formed before the girl is 14 years but not before the man completes 18 years.

(3). The consent of the guardian or parents or Kâranavan is at present considered necessary whether the woman is 21 or more or less.

(4) (1st Proviso) Now we have to consider other matters than those relating to consanguinity or affinity in forming Sambandham. They are the caste rules.

(2nd Proviso) Now we go infinitely further than this. No Sambandham can be formed between persons who belong to the same stock, or family, however remotely related.

41. The second proviso may be left out altogether. All families derived from a common ancestor, however remote, now observe pollution on the death of any of the members. For Brahmins, marriage in the same gôtram is prohibited. As there is no gôtram for the Nayars, the descent from a common ancestor may be made to take the place of gôtram.

42. Adultery. Enmity between the two families sometimes results in the dissolution of Sambandham.

43. Wives and children are maintained by the husbands and fathers while living with them.

44. Under the proposed law the whole of the self acquired or separate property of the husband is to go to the wife and children. I think their right should be confined to a certain definite share of such acquired or separate property. The expenses of education of boys are in certain cases defrayed by the Kâranavan out of his private funds or Târawad funds in the hope of a benefit in return. If the chances of a benefit in return are slender it is not likely that the Kâranavan will educate boys.

45. Sambandham between Nayars in British Malabar and the Cochin State is common. But between the Nayars in British Malabar and Travancore is less common.

(Signed). U. ACHUTAN NAIR,
District Munsif.

OTTAPALAM,
16th April 1891.

From

U. Achutan Nair,
District Munsif
Nedunganad.

To

H. M. Winterbotham Esq., c. s.

SIR,

1. In reply to your circular of the 8th April 1891, I have the honor to state that all educated Malayalis, with the exception of those who are actuated by a spirit of contradiction, or who are reluctant to disclose the unpleasant truth from feelings of pride, are in favour of a system of marriage which the law will recognize.

2. One set of opponents of the measure maintain that there is among Nayars a system of marriage, as valid and binding as among the other Hindus. This is an absurd notion. It is true that there is among us a mimicry of forms and ceremonies, which the Hindus following the ordinary Hindu law adopt, but it has no legal effect. It is also true that fathers educate their children and give property to them and their mother. But these acts are results of the natural affection and not incidents of the marriage. The prevailing system cannot, strictly speaking, be called a system of marriage, but a system of concubinage. It was instituted when society was in a rude state, obviously for the convenience of the predominant class. The test of marriage is punishment for bigamy and adultery; but it is well known that both are not punishable offences among the Nayars. Both the so-called husband and the wife have the option of putting an end to the marriage tie at his, or her, pleasure. The fact that this option is exercised rarely does not shew that the system is binding or good; but rather proves that the people have opened their eyes to the evils resulting from it, and wish that in spite of the facilities for divorce, the relationship should be both honorable and permanent. Another set of opponents ask why should there be a legal sanction at all while the existing system is practically as good as a legally recognized system of marriage. The answer to this is that it is unsafe to leave such matters to the conscience of men, and thus dispense with the necessity for legislation. It cannot be said that there are no transgressions of the rule; but I only say that they are rare in good families.

3. There are other circumstances which induce us to pray for legislation. The stigma that prostitution is legalized in Malabar, though it is not practised to greater extent than in countries where it is prohibited, will not leave us as long as there is not a legally recognized system of marriage. It is only the educated Malayalis who have occasion to live out of Malabar that feel the pain sharply.

4. The fact that all Malayalis, both educated and uneducated, who happen to possess separate or self-acquired property, give from feelings of honor and affection, the whole or a portion of such property to their wives and children, shews that the time for legalizing marriages has come. Circumstances may arise in which a father, though anxious, may not be able to make any or adequate provision for his

wife and children. In such cases the latter cannot claim any share of the property as an incident of the marriage. It is necessary to remedy this evil. At a time when exalted and sacred notions are entertained regarding marriage, it is also revolting to find that transgressions are allowed to go unpunished.

5. The second question regarding the power of testamentary disposition, I also answer in the affirmative. The grant of this power will not dispense with the necessity for legalizing marriages. Gifts inter vivos are very common now, and power to make gift to take effect after death will not add much.

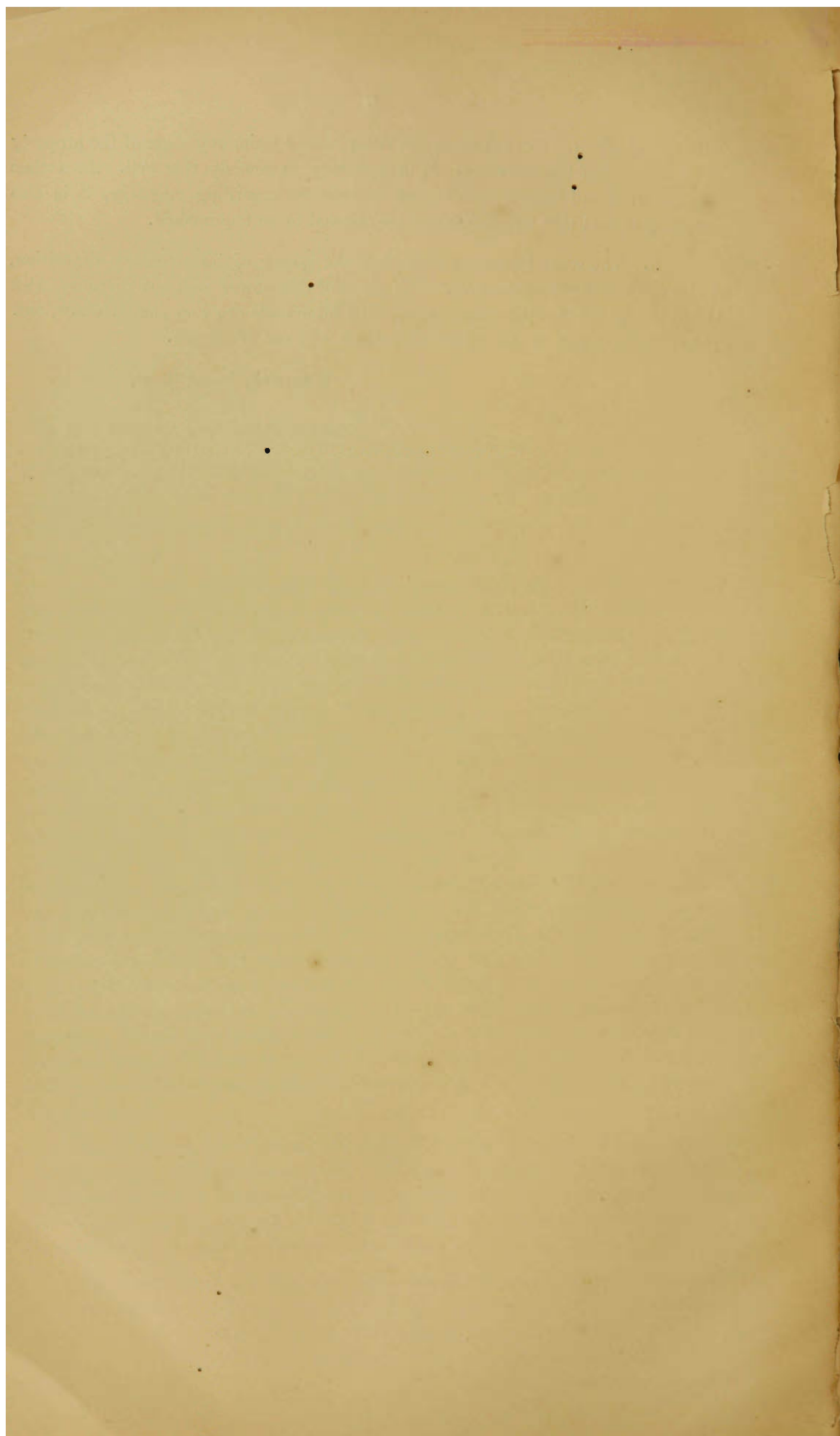
I have the honor to be,

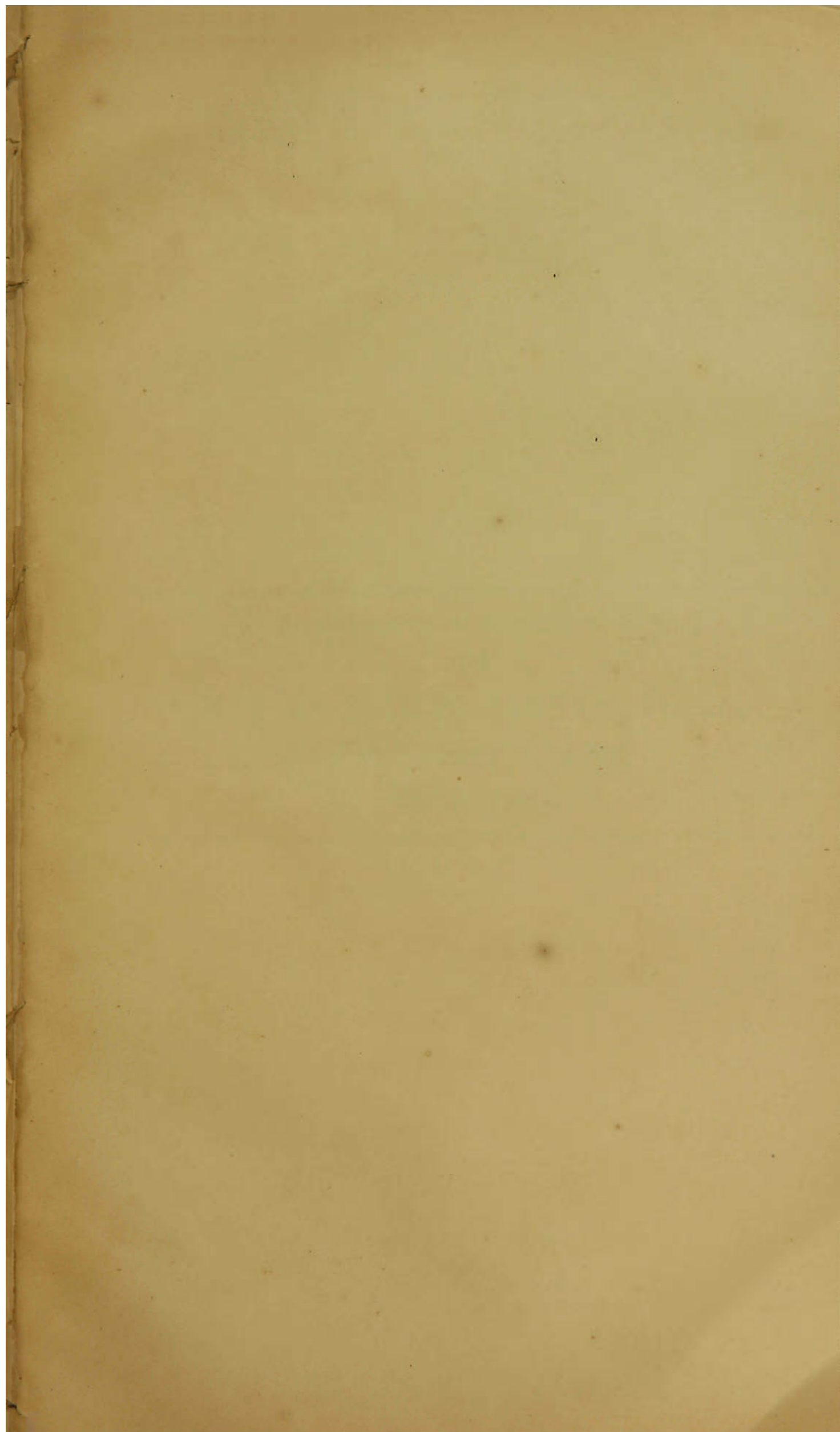
Sir,

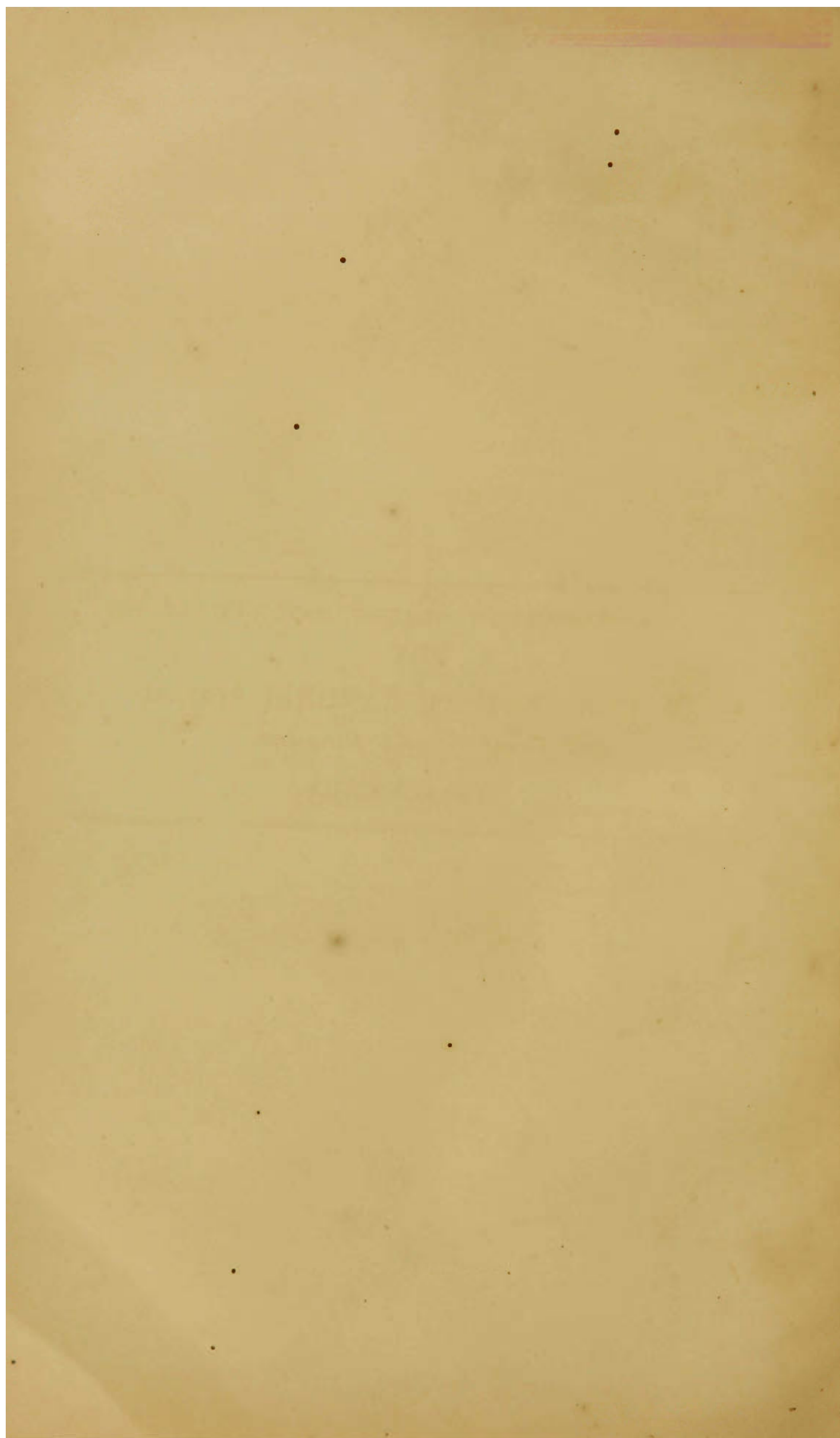
Your most obedient servant,

U. ACHUTAN NAIR,

District Munsif.



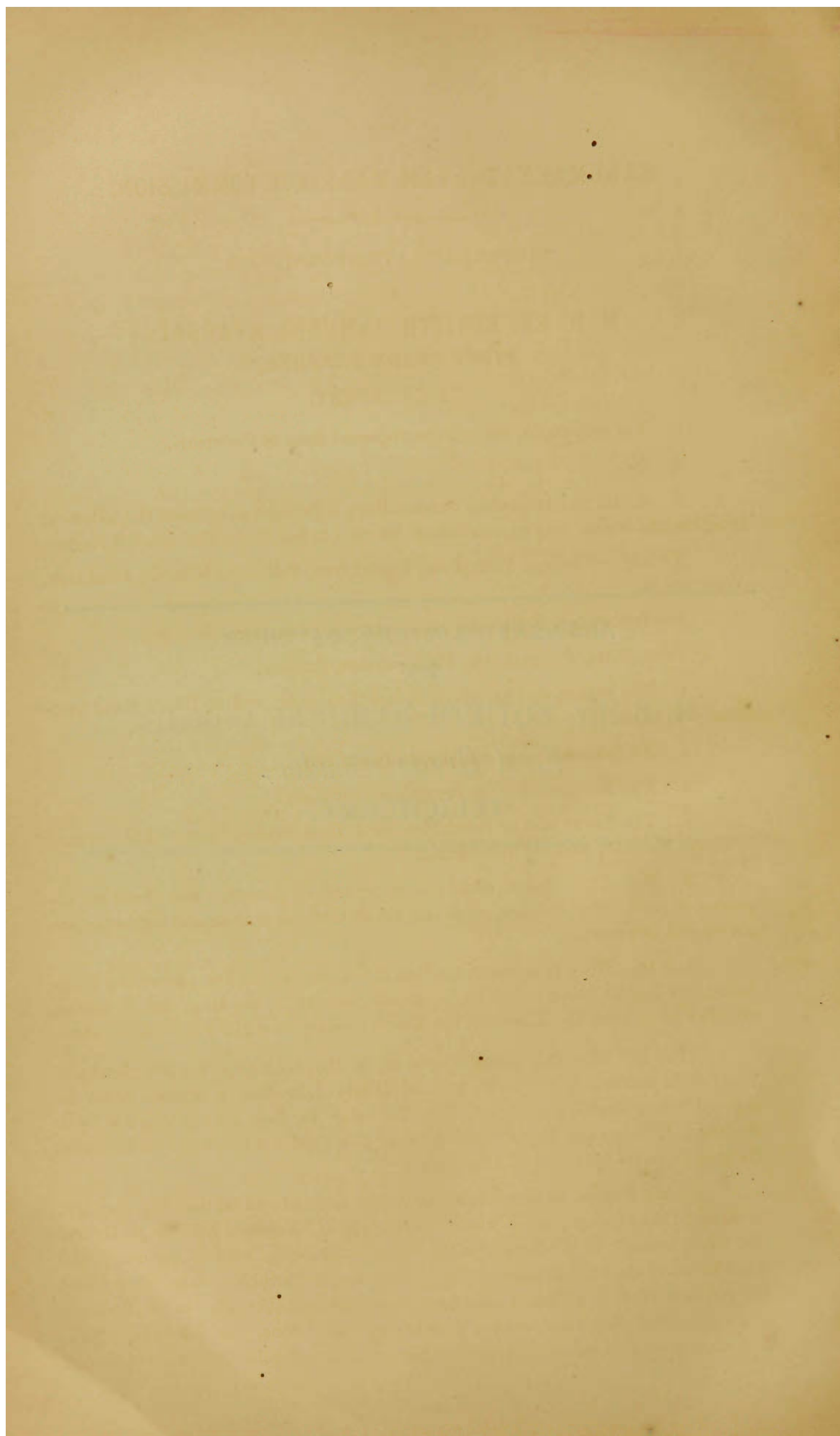




ANSWERS TO INTERROGATORIES

BY

M. R .RY. KOTIETH RAMUNNI AVARGAL,
First Grade Pleader,
TELICHERRY.



MARUMAKKATHAYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. KOTIETH RAMUNNI, AVARGAL,
FIRST GRADE PLEADER,
TELLICHERRY.

1. Yes they could, but not the approved form of Pudamuri.

2. No.

3. As far as I am aware, Sambandham is forbidden between the following sub-divisions which may in one sense be said to fall under the head of Nayars.

Namely:—Vāniyan, Vannathān, Valinchiyan, Pallichān, Kitaren, Attakaren, Yogigurikal.

The following sub-divisions could marry between themselves only.

Tatta, Titta, Perumthatta, Puttuvakaten, Parunon.

4. The woman and her children lose their caste, and no Hindu could associate with them.

5. No Prāyaschitham would remedy the evil.

6. The Korapuzha is the recognized boundary.

7. The Nayar men of North Malabar do form Sambandham with the women of South Malabar, and not vice versa.

8. No. The reason could not at present be traced. But there are instances of such Sambandham, with the result that the woman and her issues are considered out-castes.

9. & 10. No. It seems to me that it is a prohibition for preventing emigration, the Nayars being bound to do military service to the king; and if women are allowed to leave the Kingdom, the King's military strength will be diminished.

11 & 12. The Tāli Kettu Kalyānam is the substitute for the Brahmin Vivāham to conform to the strict rule of Hindu Law that a woman must be married before attaining puberty. The Tāli may be tied among Nayars by a Brahmin, Kshatriya or Nayar equal in rank. It is now as a rule tied by a Brahmin. He gets no name by virtue of this duty.

Among Nayars, an auspicious day is first selected and on that day the girl is taken to the nearest pagoda where the ablution of "Kalasam Kuli" is performed and she is brought to her house; in the house a Brahmin, who is generally the Sāndikaran of the nearest pagoda, ties the Tāli in the Patinhātta room, after which the girl is brought to a Pandal built for the purpose and there the same Brahmin ties a new cloth round her waist. This having been done, the Mārayān of the deshom ties what is called "Kāppu" on her hand. It is a gold ring tied to a thread.

The Brahmin gets fee. Other Brahmins and the girls' castemen are fed there. If the girl is betrothed to any one, he ties the Tâli himself and the marriage also takes place along with it. There are also cases where the Tâli is tied by the proposed husband and the marriage performed afterwards.

The next day after tying the Tâli, the Kâppu is removed by the Mârayân and the girl is called Akkamma, Nêyittiamma &c., and from that day forward she is known as "Amma" as distinguished from a girl. Kâppu is not tied in some parts of North Malabar.

Among Tiyars the same ceremony is gone through, but instead of the Brahmin, an elderly woman ties the Tâli and not a man; the reason being that if a man were to tie the Tâli he is considered her husband and to avoid this supposed slur on her, this procedure is adopted.

13. It is customary in these parts, and moreover if a Kalyânam is performed by a well-to-do man, poor girls of the neighbourhood are also brought in, and their Kalyânam is also performed at his expense.

14. No. None whatever. He is paid for performing Tâli Kettu.

15. None whatever.

16. No. Not amongst Nayars: amongst Tiyars I know many cases. It has become almost the practice.

17. No pollution, not even when the husband dies.

18. No.

19. Certainly. If not she loses her caste. It is taken out of Hindu Law as a substitute for the Brahmin Vivâham, which enjoins that every girl must be married before attaining puberty.

20. There are. They are known as "Pudamuri," "Vettilakkettu," and "Parisham châyika," or "Vîdâram kairuga," or "Ûzham-porukkuga," quite separate from Tâli Kettu Kalyânam altogether. Among Tiyars they are known as "Penvâzhcha," or "Mangalam," and "Parisham châyika."

Pudamuri, and Vettilakettu, and Penvâzhcha, or Mangalam, are the approved forms.

After the ceremony of Pudamuri or Mangalam the girl is brought to the husband's house.

After many minor formalities a day is fixed for the Pudamuri, or Penvâzhcha, the husband and his castemen go to the girl's house and the marriage is solemnly declared in the Patinhâtta house after giving cloth and money. Among Tiyars the girl is taken to the husband's house the same day, and among Nayars the next day. Vettila Kettu, however is not observed in some parts.

If a Nayar Raja marries a Nayar girl, most of the formalities of an ordinary marriage are gone through, with the addition of giving silk and bracelets. This is known as Olliyil Muri. In some cases the Raja does not come. He sends the girl's castemen and they bring her to the Kovilagam, after the usual formalities are gone through in her house.

21. The same as if a Raja marries.

22. I am not aware of the formalities of South Malabar. As to North Malabar, there are slight modifications among Nayars in Kottayam and Kurubranad, where there is no such thing as Vettalakettu, which is observed only in Chirakal Taluk.

23 & 24. No. Not at all in North Malabar. In North Malabar even if a man should have one wife and have a Sambandham elsewhere, unless it be on justifiable grounds he is considered a black-guard. The North Malabar husband is so notoriously jealous that there had been many murders in consequence of the slightest suspicion.

25. She could. But it is scarcely ever done. If a woman's relations were to keep her back and refuse to send her to his house without justifiable grounds, the heads of the caste insist on her going back. If the husband wishes to separate his wife, he sends her home and informs the *Madhyastan* (the middle man) and the heads of the caste, who mediate and settle all accounts of transactions between them and declare that his Sambandham has ceased. This is the respectable form of dissolution. I do not however say that there are no deviations. In such cases the Sambandham as well as the dissolution will be both informal.

27 & 28 Yes, he could, but it is highly disapproved. The western education has done a great deal to correct this evil.

29. If a woman is brought to the husband's house in the approved form she is protected and all her wants attended to, by the husband, nay, even by the Tarawâd of the husband. The decision in the Madras series vol. 6 page 270, go the length of ruling that the Tarawâd is bound to maintain the Anandiravan's wife and children. When she goes home she gets cloth and oil. The Tarawâd also sends her, all expenses for confinement and delivery. If she had not been taken to the husband's house she gets cloth and oil and confinements and delivery expenses.

30. I cannot say.

31. Certainly if the woman had been brought to the husband's house. Moreover even the ceremonies of the children are performed by the father. They are also educated by him.

32. It is the rule for one man and one woman to cleave together for life. They jointly work and maintain themselves and their children. If the husband is unable to work, the wife works and maintains the husband. Among Tiyars after the husband's death she gets what is known as "Kattasthânam" consisting of some moveables and cloth and money. I do not say that there are no unscrupulous people who frequently have Sambandham in informal way and dissolve it in the same way. But it is highly disapproved.

33. Of course he does. Vide answer to question 29.

34. In the Tarawâds of the cultivators, all the members work, but get no separate allowance. They also rent Tarawâd lands, when of course they take the surplus and deal with it as they please.

35 and 36. Under the present system of anarchy solely created by the decisions of anandiravan judges, the anandiravans do not work for the Tarawâd. Under the Malabar law as at present administered the Kâranavan is

only an unpaid trustee or servant. Now the anandiravans try to earn something for themselves, and give their acquisitions to their wives and children, and a very little to their sisters, and nothing to the Tarawâd.

37. Giving property on gift to one's wife and children is common, and is turned Puthrâvakâsam. This is the present form of providing for the wife and children as it was doubted whether a Malayali could give property by will. I am however glad to find that the High Court has upheld wills. But as it is a doubtful point it is desirable to legalize it by a special enactment. I believe the practice of giving self acquired property by gift also obtains in South Malabar.

38 and 39. The question seems to presuppose that Nayars and Tiyars have no marriage laws. In one sense it may be said they have none, for in as much as the wife and children acquire no rights to the property of the husband and the father, it may be said that the marriage is not recognized by law. But see the marriage of Marumakkathâyam Moplas. The children have no rights to property. Does it follow that the marriage is not legally recognized. To my mind, however, in North Malabar the marriage is, if not legally, at least by custom recognized, in as much as the wife and children live with the husband, who protects them and is expected to support them, and who is expected to live with his wife unless his caste customs give him the right to divorce her. What the custom is in South Malabar I do not know, and if the social customs compel one to live with his wife till death, or divorce, what further recognition is wanted. I may add that in the case of Mukkuvars (Fishermen) following Marumakkathâyam law, Mr. Reid when Sessions Judge at Tellicherry convicted a man for committing adultery with the wife of such a Mukkuvan. To say that because the man and woman follow Marumakkathâyam, that therefore there is no legal marriage is not correct, as for instance in the case of Payyanoor Brahmins, whose marriage customs are as strict as those of other Brahmins, but with no rights to the fathers' property. Further it may be observed that there is no material difference between the marriage of South and North Malabar Tiyars and in this connection I may be allowed to point out the decisions in the I. L. R. Madras series Vol. VIII page 238 which held that the issues by marriage of a Marumakkathâyam woman with a Makkathâyam man, could take the property of the father without losing their rights to the Tarawâd. Is it because that the man follows Makkathâyam that the marriage is Ipso Facto valid? In my opinion therefore the marriage is now legally recognized, but if this is doubted it is advisable to legalize the present approved form of marriage. It would however be convenient to provide some form of registration. They may do so if they prefer it, or it would be sufficient to send in a notice signed by the parties and two or more witnesses to the Registrar, to the effect that they were married on a certain date.

40 & 41. This question brings prominently the evils of an attempt to legislate in the way proposed. If the provisions proposed become law, then any man, whether of high or low caste, may legally marry any woman of the same or higher or lower caste. Has the mover of the proposed bill taken this into consideration, and is it his intention thereby to do away with all caste distinctions and has the Legislative Council power to so legislate? The question is wide and capable of a great deal of discussion.

In my opinion this section is likely to work in a most mischievous way, and no conditions or provision added to it will be likely to prevent the mischief.

I am inclined to think that the modern idea of marriage is to make it simply a matter of contract, which is more consistent with Malabar marriage.

42. I would here mention a Subhâshita Sloka which indicates the old idea that prevailed among the people on the subject. But in practice, infidelity is the principle ground for dissolving Sambandham.

(*Transalation by the Commission*),—"A wife who is disputatious,—who steals her husband's property,—who favours another than her husband,—who converses with stranger men,—who is gluttonous,—who enters strange houses,—should be put away, even though she have borne ten sons—"

43. The wives and children are well protected by the husband and father. I may add that the majority of Malayali officials, of the present day, are those that were so protected and educated.

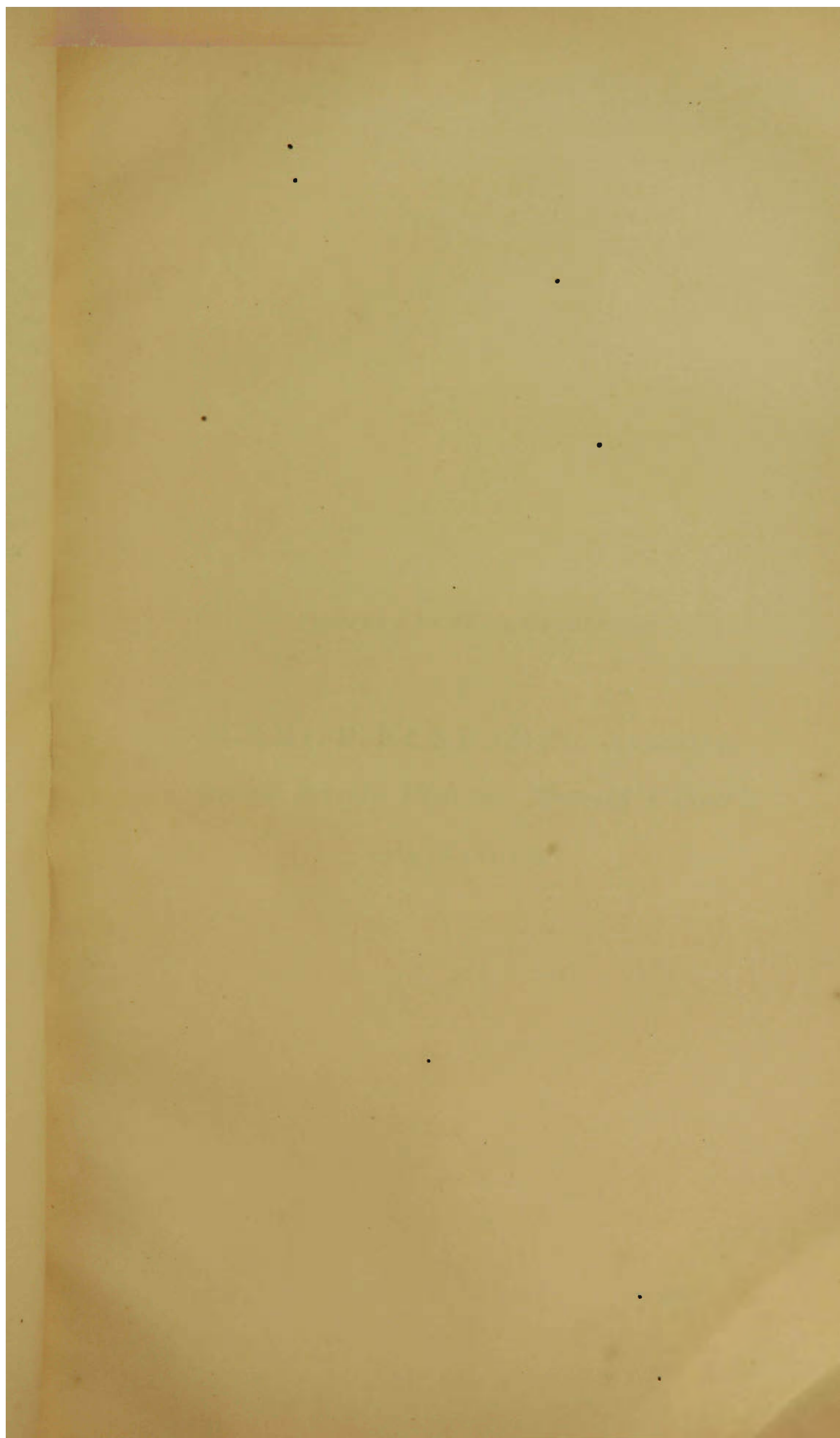
44. In my opinion this is interfering with Marumakkathâyam law and I doubt the Legislative Council has power to frame such rule as it contravenes the Provisions of the Queen's Proclamation of 1858, and thereby virtually repeals a Statute of Parliament.

If possible, I would propose that the self acquired property be divided into two equal shares of which one to be taken by the wife and children, and the other to pass to the nearest relation on the mother's side, namely, the sisters and their children. The old Marumakkathâyam law as administered before Mr. Holloway decided the case reported in Vol II page 162 of the Madras High Court Reports, was that the self-acquired property of any member should pass to the nearest relation, and not to the Tarawâd.

KOTIETH RAMUNNI,
1st Grade Pleader,
Tellicherry.

The first part of the report is devoted to a general description of the country and its resources. It is then divided into two main sections, the first of which deals with the physical features of the country and the second with its political and social conditions. The first section is divided into three parts, the first of which deals with the topography of the country, the second with its climate and the third with its soil and vegetation. The second section is divided into two parts, the first of which deals with the political conditions of the country and the second with its social conditions. The report is then divided into two main parts, the first of which deals with the physical features of the country and the second with its political and social conditions. The first part is divided into three parts, the first of which deals with the topography of the country, the second with its climate and the third with its soil and vegetation. The second part is divided into two parts, the first of which deals with the political conditions of the country and the second with its social conditions. The report is then divided into two main parts, the first of which deals with the physical features of the country and the second with its political and social conditions. The first part is divided into three parts, the first of which deals with the topography of the country, the second with its climate and the third with its soil and vegetation. The second part is divided into two parts, the first of which deals with the political conditions of the country and the second with its social conditions.

The second part of the report is devoted to a general description of the country and its resources. It is then divided into two main sections, the first of which deals with the physical features of the country and the second with its political and social conditions. The first section is divided into three parts, the first of which deals with the topography of the country, the second with its climate and the third with its soil and vegetation. The second section is divided into two parts, the first of which deals with the political conditions of the country and the second with its social conditions. The report is then divided into two main parts, the first of which deals with the physical features of the country and the second with its political and social conditions. The first part is divided into three parts, the first of which deals with the topography of the country, the second with its climate and the third with its soil and vegetation. The second part is divided into two parts, the first of which deals with the political conditions of the country and the second with its social conditions. The report is then divided into two main parts, the first of which deals with the physical features of the country and the second with its political and social conditions. The first part is divided into three parts, the first of which deals with the topography of the country, the second with its climate and the third with its soil and vegetation. The second part is divided into two parts, the first of which deals with the political conditions of the country and the second with its social conditions.



THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

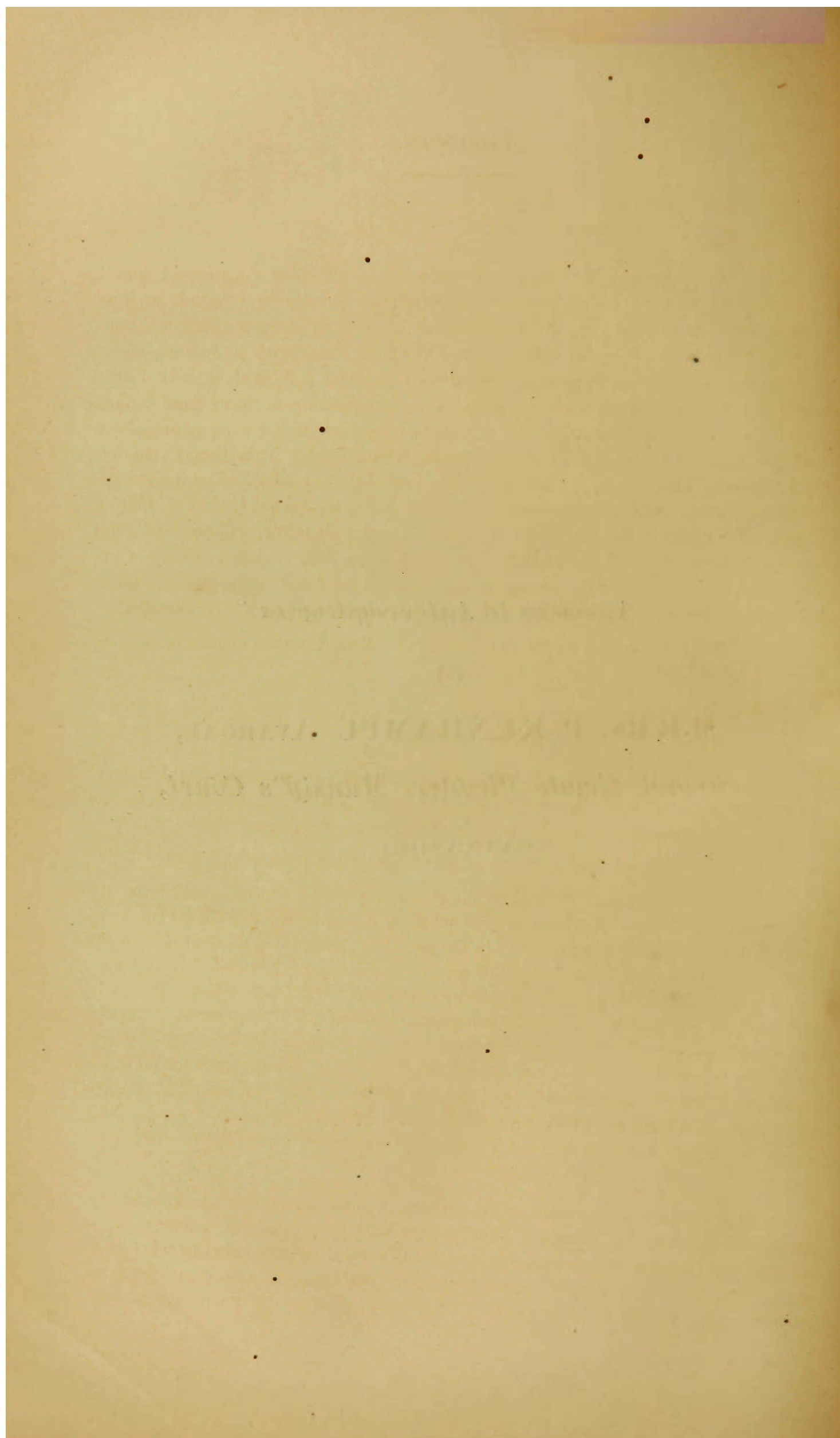
THE UNIVERSITY OF CHICAGO PRESS

Answers to Interrogatories

BY

M.R.Ry. P. KUNHAMPU AVARGAL,
Second Grade Pleader, Munsiff's Court,

CANNANORE.



Answers.

1. Yes.

2. No.

3. It is regulated according to the custom involved in questions 1 and 2. The test of determining whether a man or a woman belongs to a higher or lower division seems to be this, viz., woman in higher division by being coupled with man in lower division loses her status, whereas, if she is so done with a man in higher division she neither loses her status nor improves her own. Therefore, if that class to which a woman belongs does not consider it a dishonour to form Sambandham with a man of another class, the former must be considered either as equal to or lower than the latter, so far as division or such caste, is concerned. This seems to me to be the fundamental rule, or idea, which form the basis of the regulation of intermarriages between different castes, or divisions of the same caste, throughout the whole Hindus. Hence, a Nair man of ചാർന (Chârna) division, which is lower, will not be allowed to form Sambandham with a woman of the ശുഭ്ര Sudra Nair division.

4. It does in that the parties of the marriage, and their offspring, will not be allowed to intermarry or interdine with the members of their respective division.

5. No. Validation by Prayashchitham of a Sambandham not sanctioned by usage is unheard of.

6. Korapuzha.

7. Yes.

8. Yes to a very limited extent. The rarity of such occurrence is, I believe, on account of scruples and ignorance on the part of North Malabarians as to the relative social position of the several divisions of South Malabarian Nairs.

9. They cross it if they go on pilgrimage, but not otherwise.

10. I imagine the following is the cause of it. For centuries together the countries lying north of Korapuzha were ruled by Kolathiri Raja of Chirakkal, or by some chiefs paying homage to him. In the same way, those lying south of Korapuzha were under the rule of Zamorin of Calicut, or some relations or chiefs paying homage to him. These two parties were always belligerent with each other. The military of these two powers was wholly composed of Nairs, and these were very anxious to protect the honour of the women of one party from violation from the other party. In an age in which extradition law was unknown or impossible, necessity forced them, especially North Malabarians who seem to me to be of more orthodoxical turn of mind than their Southern brethren, to declare it a forfeiture of caste for any Nair woman of North Malabar to cross Korapuzha the natural boundary of these two Rajas.

11. Tâli kettu kalyânam is, in essence, a sham imitation of Brahminical ceremony of performing marriage of a girl before she attains her puberty. It is believed that the occurrence of puberty before Tâli kettu kalyânam works forfeiture of caste. But since the people most scrupulously guard against loss of caste such an occurrence is not within the memory of living men. Now to the description of cere-

mony. The form of ceremony varies among various Tarawâds and divisions of Nairs. I will confine myself to the ceremony in vogue among Tiyars following Marumakkathâyam in North Malabar, as my knowledge about that affair among Nairs is not as thorough as to be wished. An auspicious day and hour (commonly called muhûrtham) is fixed in consultation with the local astrologer, who is generally of Kanishan caste. The Muhûrtham (മുഹൂർത്തം) is none other than the one prescribed for marriage in Hindu Astrology. Because Tâli kettu kalyânam as understood and practised, among Marumakkathayam people is unknown to Hindu Law. Even if the Muhûrtham is fixed by a professional man of another caste, the Kanishan of the locality, who has some hereditary perquisites to be obtained on such occasions, must be present at the time of the ceremony. A pandal is erected and decorated in the front yard of the house. Four lamps are hung up at the four corners of the pandal and well lit up. A plantain tree, which has its bunch of plantains present on it, is placed in its natural position at the right hand corner of that side which is directly opposite to, and in a parallel line with, the side lying immediately close to the house. Before the ceremony in the pandal, which I may call the second part of the whole ceremony, is described, I will describe the ceremony performed in the room of the house. A barber-woman is invited to perform the ceremony. She, in fact, takes the place of Brahmin Purohit. Two neatly washed clothes are brought by washer-woman. One of these two pieces the girl is made to clothe with. A rectangular space is drawn with paddy, and in the middle of it brass-pot with water and rice (അരി) in it is placed. Seven grains of rice and seven flowers of Tumba (Nepeta Malabarica) are placed by the barber-woman in the hand of the girl, and she (girl) is made to place them in the water above-said. A round motion is given to the water by the barber-woman with her hand, before the grains of rice and flower are put in it. By the position of the flowers the women standing around prognosticate the future life of the girl. A virgin girl to whom Tali Kettu Kalyânam was not performed is made to attend this girl, and she is, further, made to sprinkle water over the head of the girl under description, at a certain stage of the ceremony, and I will have to mention these two girls very often hereafter. I will call our subject of description senior girl, and the other, junior. This senior girl is made to lie on the second piece of cloth referred to above, which is spread over a blanket at a convenient part of the room generally close to a side-wall. The junior girl must attend her now. She cannot leave her till the whole ceremony is over. This part of the ceremony is called “കല്യാണകുട്ടിയെ തിരട്ടിവെക്കുക.” തിരട്ടുക means to attain puberty, or to appear menses for the first time. So, തിരട്ടിവെക്കുക (tirattivékkuga) means to perform the usual ceremony consequent on the first appearance of menses. After a while, the senior girl is adorned with all possible ornaments and made ready for introduction to the open pandal in the presence of the public. Before that is done an elderly woman, generally the wife of the uncle of the senior girl, comes attended with 5, 7, 11 or 21 females in the pandal. She takes in her hand a board, which is generally used for sitting upon, and making 3 rounds in the pandal, accompanied with the women abovesaid, she places that board in the middle of the pandal and sits behind it. In the pandal also a rectangular figure is drawn by the barber-woman with paddy. This elderly woman is to sit down within that figure. Soon after, another elderly woman, from within the house, asks the astrologer thrice a formula to the following effect:—“പെരുങ്കുന്നിയാളെ കല്യാണകുട്ടിക്കു പന്തലിൽ കിഴിവാൻ സംബന്ധമുഹൂർത്തം ആയോ.” That is to say, “oh! chief astrologer! Is the auspicious time for the bride to enter the pandal and go through the ceremony of Sambandham come?”

On the astrologer's replying in the affirmative the senior girl, with her attendant the junior girl, is introduced into the pandal. She is further attended by the same number of females as above mentioned, and made to make 3 rounds in the pandal. After the usual rounds are made, she is made to sit down on the board which was, as mentioned above, placed beforehand in the pandal. Before sitting down, just when she finished the rounds, the elderly woman, who was first introduced and seated in the pandal, rises and receives the girl, and asks her to sit down. After this some elderly women sprinkle rice first on the fire in the lamp, and afterwards on the head of the girl. It is then the important ceremony of tying the Tâli is performed by the barber-woman with the permission of the elderly male members of the caste present there. Afterwards either father or uncle of the girl enters the pandal, and gives a new cloth to the girl. In fact he with his own hand, clothes the girl with it. Afterwards all the relations and friends follow the same. Some give clothes, and some, money. All these are considered as presents. While this girl was sitting there the attendant girl is made to go to mulla plant (*Jasminum Sambac*). Even if there is really no "mulla", yet a spot which is a few paces from the pandal, is for the purpose regarded as the place of mulla plant, which is represented by an iron nail fixed on the ground and water is poured there. The attendant girl is next escorted back to the pandal. There, a covered brasspot in which three bundles (one composed of charcoal &c., another composed of rice and flower, and the third composed of gold and flower) had been deposited, is uncovered by the barber-woman and the senior girl is made to pick up one of them according to her choice. This is also to ascertain whether her future life is prosperous or not. After this a cooking vessel, a spoon, and a stone-grinder are brought to the pandal and the barber-woman holding the hand of the girl pretends to make her cook, grind &c., repeating certain significant formulas. When this is finished the senior girl is made to get up, and walk up to the plantain tree, adverted to in the beginning of this. She is made to cut down by one stroke the bunch of the plantain, and then escorted back to the house. Here the ceremony ends. The attendant girl is colloquially called കഞ്ഞിക്കാലം (*kanyikkalam*) which is a corrupted form of the word കന്യാകാലം (*kanyâkalam*.) It is this attendant girl that is to bear the brass-pot (ഉരളി) on her head, and bring it to the pandal. A similar virgin girl attends that senior girl at her ceremony of the first appearance of the menses. I have thought it necessary to give such a minute detail of the ceremony, to show that this ceremony is nothing but an imitation or aping of the Vivâham (marriage) of Brahmans. In the case of the latter she and her offspring become the heirs of the husband, whereas in the case of the former, Marumakkathâyam Law does not allow that. Several incidents and formulas uttered in the several stages in the course of the ceremony coincide with those in the marriage-ceremony prescribed by the Brahmans. For instance, (1) fixing of the auspicious time in consultation of Hindu Astrologer, that is, according to Brahminical rules; (2) the presence of barber-woman in place of purohit; (3) sprinkling of rice to the fire which ceremony is emblematic of two things, namely, making an offering to the Fire-God and calling his attention and blessing to the ceremony just going to be performed; (4) tying Tâli in the open pandal which is called kalyâna-pandal (5) asking the astrologer whether the auspicious time for entering the pandal, and performing the ceremony sambandham, is come; (6) gifts of clothes and money by relations and friends; (7) going to a mulla-plant which is emblematic of rearing flowers for the better enjoyment of nuptial life; (8) to learn cookery, and proclaim the knowledge of it to the public, thus shewing that she is well up in all those branches of knowledge which are considered as indispensable for a

Hindu wife; (9) cutting down plantain fruit which is symbolical of giving birth to a child; (10) the present idea of dishonour and forfeiture of caste in case the menses appear before the performance of Tali kettu kalyânam just as the idea of the other Hindus of losing the caste of the girl in case she is not given in marriage before she attains her puberty—all these and several other minor things point to, in my humble opinion, nothing but that this Tali kettu kalyânam is an imitation of Vivâham, or marriage ceremony, prescribed according to the Brahminical rules. I may be here allowed to digress and say that this custom, as almost all the customs in the world are, is blindly followed in all its details without bestowing any thought upon its origin, or presence of several incidents in it. I may point out that that part of ceremony, which is performed in the room of the house with less publicity, and which goes by the name of തിരട്ടിവെക്കൽ (tiratti-vêkkal) and several undescribed minor parts, which exactly coincide with those of the ceremony performed at the appearance of the first menses of a girl, point to show that this first part is the remnant of that old Brahminical custom according to which a woman is given in marriage only after she attains her puberty.

12. As to who should tie Tali it is answered in the answer to the previous question. I do not know if there is any particular name for the tier of the Tali in Malayalam language.

13. Now it is the custom among Tiyars also. For formerly it was not so.

14. This question does not arise among Tiyars as it is the barber-woman that generally ties Tâli. As to the custom among Nairs I do not know.

15. So long as Tali kettu kalyânam is the counterfeit of marriage I don't see there can be any just prohibition to the Tali tiers afterwards forming Sam-bandham with the girl. But whether there is actually any prohibition among Nair community, I do not know.

16. No.

17. I do not know. Such a thing is not even heard of in North Malabar.

18. Among Tiyars in North Malabar, Tali is sometimes tied on by the girl's mother or grandmother instead of by barber-woman.

19. Yes. Nothing but custom to be pleaded in justification of the practice alluded to in the question.

20. Yes. Formalities differ in different classes and localities. I will briefly describe the formalities obtaining in Tiyar community. When a man's marriage is intended his father, karanavan or other guardian, after finding the girl and getting the promise of the girl's guardian, fixes in consultation of the relations and friends of both parties an auspicious day for the celebration of the marriage. On the day fixed the bridegroom, with his best man, accompanied by a number of friends and relations, both males and females, go to the house of the bride. There they are received and fed at the cost of the guardian of the girl. In a selected room which is generally the middle one, both the bride and the bridegroom, with his best man, are made to sit down separately, the bride being at the left side of the bridegroom. A lamp is lighted and rice is sprinkled, first on the fire in the lamp and then on the heads and shoulders of the bride, bridegroom and the best man. Afterwards, the gôtram, or clan, of the two parties is proclaimed and a certain amount of money

which is chiefly contributed by those invited, is given by the guardian of the bridegroom to the guardian of the bride. That money is called kânapanam, കാണപ്പണം that is, mortgage-money. In some places it is called the kanjipanam കഞ്ഞിപ്പണം, that is, the cost of the food given. After this, the bride, bridegroom, and the best man accompanied by several relations and friends go to the house of the bridegroom. The ceremony ends there. This is the essence of the ceremony. There are many minute details which I have omitted.

21 and 22. I have no knowledge.

23. There is no such a custom among Nairs or Tiyars in North Malabar. It is not even heard of as having existed at any time there.

24. See answer to Question 23.

25. Yes.

26. None.

27. Yes.

28. None.

29. The general custom is for the woman to sleep and take her meals at the house of her husband. But there is no objection to her remaining in her house also.

30. The above is the custom in North Malabar. As to the custom in South Malabar I have no personal knowledge.

31. So long as the woman and the children live in the house of the man, the latter is bound according to the recognized custom to support them, but not when she and her children live in her house. In the latter case she is only entitled to clothes and oil.

32. It is not the custom to change Sambandham frequently. To do so is an exception. For a man and a woman to cleave together as husband and wife for life is the rule. At least, it is so in North Malabar both among Nairs and Tiyars. There are thousands of instances of that custom.

33. He does.

34. If Anandiravars work for the Tarawad allowance is not invariably made to them by the Karanavan. Anandiravars sometimes do cultivate Tarawad land for rent. In such cases they are treated as ordinary tenants and permitted to deal with the surplus, if any, at their pleasure.

35. Anandaravars do not generally work for their Tarawad, unless all their expenses are met by their Karanavar.

36. Anandaravars use their private earnings as they like. It is seldom, I should say it is *never*, that they hand over their earnings to their Karanavan.

37. In North Malabar what is known as Puthrâvakâsam is nothing but an actual gift, by a formal deed, of property by father to his children. The incidents of such gifts are just the same as those in other communities. Only the self-acquisition is generally given as Puthrâvaksâam. If Tarawad property is ever given such a transaction is invariably set aside by law-suits by Anandiravars unless the latter ratify such gifts. I do not know whether there is in South Malabar any practice analogous to it.

38. None.

39. If legal sanction is to be accorded to marriage I would prefer to retain the customary form even without any registration of marriage at all. To preserve the evidence of marriage the fact that a marriage has taken place may be reported within a fixed date to some specified officer of the Government by the nuptial parties, or their guardians, or by both.

40. The conditions of a valid marriage mentioned in the margin of the question paper differ in the following respects from the Sambandham recognized in practice, viz :

(1). In Sambandham it is not compulsory that the man must, at the time of Sambandham, not have a wife living. But it is imperative in North Malabar that the woman should not have a husband living. That is to say, a woman cannot be the wife of more than one man at the same time.

(2). The limit of the age of the parties of Sambandham is simply discretionary with them.

(3). Neither party must, as of necessity, if he or she has not completed the age of twenty-one years, have obtained the consent of his or her legal guardian at the time of Sambandham. Generally, if not always, consent of guardians is obtained in such cases.

41. As to condition No. 1 in question 40, I would follow the ordinary Hindu Law, and Mahomedan Law, which allow plurality of wives; with provisos that the husband will be bound to maintain all the wives just in the same way as he could do if he had but one wife, and that on his marriage with a second wife, without a written consent from the first wife, she will be entitled by that simple reason, if she chooses, to get a divorce from him. If the first wife agrees to her husband's taking a second wife why should the law refuse him. If the first wife does not agree she must get her liberty. The law of monogamy is certainly excellent. But it is, in my opinion, too divine for man. Because, in life a thousand and one circumstances crop up which force a man for the sake of peace and happiness to seek a change of wife. A law for the guidance of man must neither be inconsistent with his human nature, nor such as he is, in the long run, more apt to break than stick to.

To condition No. 4 under question 40, I would add another proviso enabling a man to marry his deceased wife's sister. I think such a practice will considerably conduce to the happiness of both families, and especially of the children by the first wife.

42. Loss of caste of either party, or change of religion, or adultery or mutual misunderstanding, is considered as reasonable ground for dissolving a Sambandham.

43. See answer to question 31.

44. (a) I think the provision is consistent with nature. So, I would have it retained. The words "children born to him before or after such marriage" in this clause and clause (d) suggest indirectly that even those who live now as husband and wife may go through the ceremony of marriage prescribed according to the proposed Act after it comes into force. If so, it must be plainly expressed. The provision in clause (1) under question 40 is not explicit enough in this matter.

(b) As the Act is intended to be only a permissive one the retention by wife and children of their right to their Tarawad, property cannot but be provided for.

Further, it would appear by this provision that the children by the mere fact of their having been born in a wedlock sanctioned by this law do not fall under the obligation of performing their own marriage according to this Act. They are quite free as if they were otherwise, in other words, it is the form of marriage alone in individual cases which give birth to the new rights. Under this law a man may at once be the Karanavan (head) of his Tarawad, and be entitled to a portion of his father's property, and also be responsible to his wife and children, if he contracted his marriage according to this act. There also, as at present, the duty of a man as Karanavan towards the members of his Tarawad may conflict with his natural affection towards his children and wife. I don't think we can help it.

(c) and (d). I have nothing to say against these. I would here suggest a supplemental provision to the effect that the self-acquired property of one of the children of such wedlock, who dies intestate, must, if he has no wife or children surviving, be inherited by the surviving children and mother and not by the Tarawad. I am aware that the right *as between* brothers and sisters does not actually arise, according to the spirit of the proposed Act, from the marriage tie of their *parents*. But comparing the justice of the right of the Tarawad and of that of the surviving children to the property of the deceased, I am inclined to think that the provision suggested is not very wide of the scope of the Act.

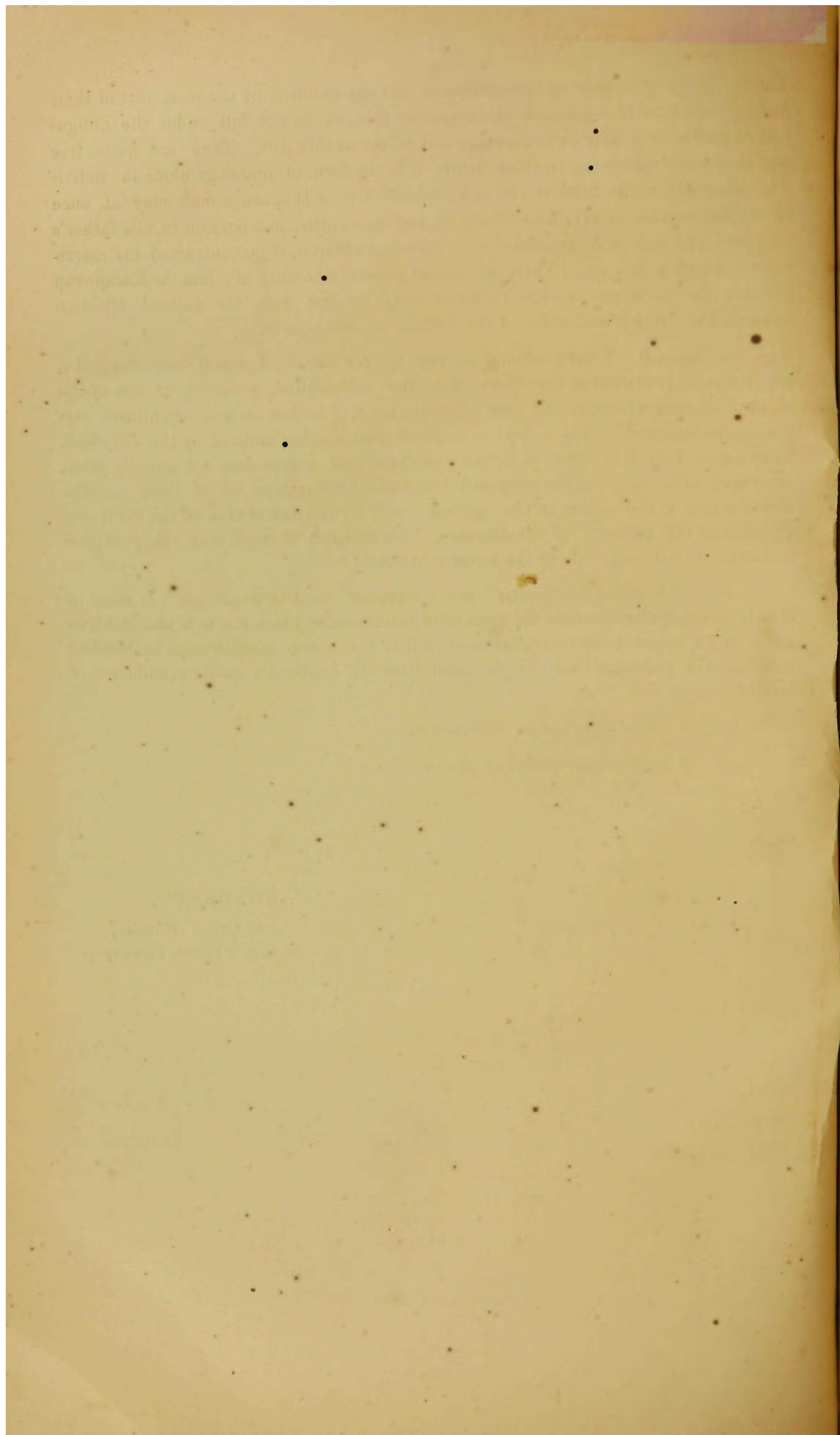
(e) The words "sufficient" and "suitable" must be explained. It must be clearly made known whether the amount of maintenance which the wife and children are entitled to get from their Tarawad, will be taken into consideration in deciding whether the provision that is to be made from the husband's estate is sufficient or suitable.

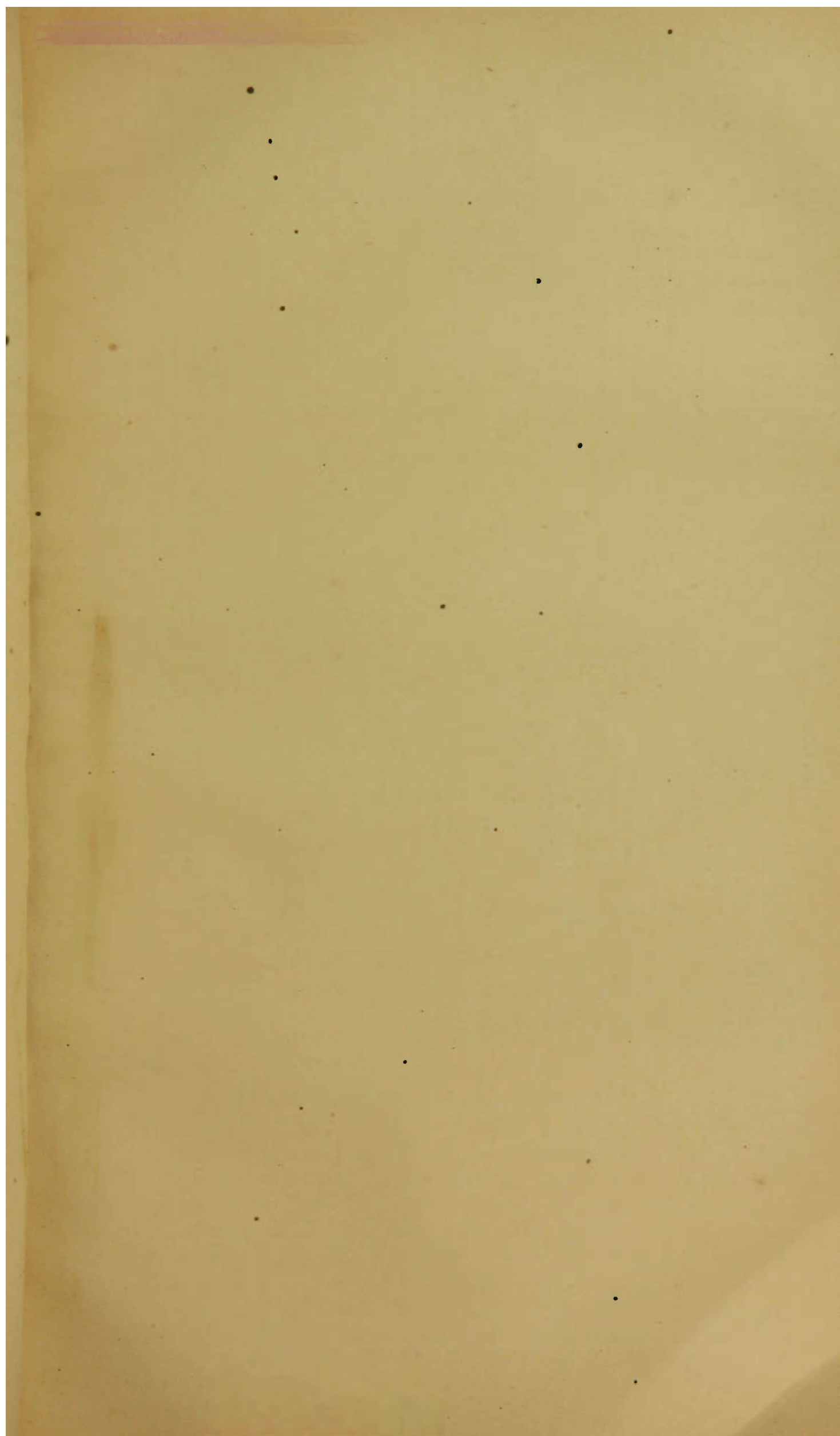
(f) I see no objection to this question.

45. I have no knowledge on the matter.

CANNANORE,
7th May, 1891.

P. KUNHAMPU,
2nd Grade Pleader,
Munsiff's Court, Cannanore.





CALICUT :

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. T. KUNYAMBU, AVARGAL,

TAHSILDAR,

PONNANI TALUK.

(*Marumakkathâyam Tiyân*).

1. Yes.
2. No. But I know that the practice exists in Manopuram.
3. As far as I understand, no line of distinction can be drawn as a rule. For instance in South Malabar a Nayar of a higher division can have Sambandham with a Nayar woman either of Vattêkkâd or Athikkurissi section. This is prohibited in North Malabar.
4. If the woman belongs to a higher division she would be excommunicated. If it be a man he is a man (and so escapes.)
5. No.
6. There are more than one boundaries. For instance, a Nayar of Kurumbranad Taluk cannot form Sambandham in Chirakkal. A Nayar to the South of Kôrapuzha can have no Sambandham in Kurumbranad. But those in Kizhakumpram and Vatakkumpram in Calicut Taluk are not prevented from forming Sambandham in Kurumbranad Taluk. Their females cannot cross to the South of Kallai river, nor can they have Sambandham with those to the South of Kallai.
7. Nayars of North Malabar can have Sambandham in South Malabar, but those of the latter place cannot do so in North Malabar.
8. Not customary. No other reason can be assigned.
9. The restriction is not limited to Kôrapuzha. There are several other boundaries mentioned in the answer to question 6. But in certain cases, Nayars of North Malabar have commenced to bring their wives to South Malabar with the permission of their respective Rajahs.
10. By mere custom which is likely to have sprung up from the dissatisfaction with which the Northerns have viewed the habits of the Southerns.
11. It supposes the celebration of a marriage before puberty. The ceremony so varies in different places and among different sections that it is difficult to give a definite description thereof. Almost all classes of Nayars in the South select for tying tâli a man of their own community whose horoscope favours an alliance with the girl. Three days previous to the tâlikettu, the girl will not be permitted to move about in the house, but should remain in a room assigned for the purpose. On the day of tâlikettu, the man proposed to tie the tâli will be received in a procession and brought in. After having gone round the pandal three times along with the girl, the man enters the pandal and takes his seat there with the girl on his left side. Where there are more than one girl to undergo the cere-

mony, their seats are so arranged in the order of their age that the junior sits on the left side of the senior with the respective male on the right. Subsequent to the performance of certain religious rites, each male intended for tying the tâli receives the consecrated ornament and ties it around the neck of the girl. The girl and the male who tied the tâli, then retire to a decorated room where they remain for four days. On the fourth day the girl and the man go to the tank, take their bath, perform devotion in the temple and return to the house where the girl serves the man his meals. After he has finished his meals, she sits at the leaf in which the meals are served and partakes of the remnant. In some places both sit together at the meals. The man next gives the girl a piece of cloth severed from a double one worn by him. This is an indication of the dissolution of the marriage tie. If it is the desire of the relations that the girl should have as her Sambandhakâran the man who tied the tâli, the cloth is not so severed. Whether the tie is dissolved as above or whether the man remains as the Sambandhakâran pollution is mutually observed on the occasion of death, either of the male or the female.

In the South, among certain sections of Nayars, tâli is tied by the Nambudiris, Tirumulpâds and Kiriyaathil Nayars while there are instances in North Malabar of Nambudiris doing the same. These do not examine the horoscope nor do they observe the pollution.

In certain families in Kurumbranad tâli can be tied only by a Manavâlan Nayar.

Among those people to whom it is customary for a member of their own community to tie the tâli, the mothers generally tie the tâli around the neck of infant girls. This is usual with those who have no means of celebrating a formal ceremony. Among others, the tâli ought to be tied on by a Kshatriya.

The custom prevailing among Marumakkathâyam Tiyans also varies in different localities. In some places the tâli is tied by the caste barber-women and in others by the mother or other female relation. Where the girl is to be given in marriage at the pandal in which the tâlikettu is to be celebrated, the tâli is tied by the husband himself. The bridegroom elect will tie the tâli even if the taking home of the bride after marriage has to be put off for any reason.

12. Vide answer to question 11. Where the tâli is tied by a member of the same community, the man is called Manavâlan or Pilla (bridegroom.)

13. It is the custom for a number of girls at the same time and place, to have their tâli tied on; but each girl must ordinarily have a male for the purpose. In case of poverty a number of girls will usually have their tâli tied on by a limited number of males.

14. Not as a rule. As stated in answer to question 11, if (they) do not dissolve the tie by the severance of cloth, it is considered to be a Sambandham.

15. No.

16. No.

17. In South Malabar when the man who ties the tâli is of the same caste as the woman both mutually observe pollution. This custom prevails among those other than Chârnavar.

18. Vide answer to question 11.

19. Certainly. But this is not compulsory in Manapuram.

20. Yes. On the night of the day fixed for Sambandham, the bridegroom goes to the bride's house with his friends taking some betel-leaf, nut &c. Among certain classes, it is customary for the bridegroom to take a portion of the chewing material thus brought and leave it in a plantain leaf at the entrance to the room &c., for the use of the Kâranavan of the bride. No further ceremony is performed. In certain cases the bride's people, or those of both the parties, make presents, if they choose and if they can afford to do so, in money, to Brahmins, and in cloths to others. This form of Sambandham is known in North Malabar by the name of Ūzham Porukkuka or Vîdâram Vekkuka. But in addition to the form of Sambandham observed in South Malabar, the custom prevails in certain parts of giving money to the bride. The form known as Pudamuri is confined exclusively to North Malabar.

It is as described below. The bridegroom goes to the bride's house accompanied by a number of men and taking with him four double cloths at least and some chewing materials according to his means. After meals are taken, the bridegroom enters the bed-room and takes out of the cloth brought by him a single piece which he leaves with some money for the bride. If the bridegroom is a Nâduvâzhi, a pair of bangles and silk cloth are given to the bride. The bridegroom remains for the night and takes the bride next morning to his house accompanied by his attendants and by the wife of the Kâranavan and other females.

In South Malabar, if a woman wishes to go to her husband's house some female member of the husband's family should first go to the woman's house, take meals there and bring the woman with them accompanied by some female members of her family. These females return home after taking their meals. When the woman so brought goes back to her Tarawâd, she should receive some ornaments according to the means of her Sambandhakkâran.

The custom is different among the Marumakkathâyam Tiyans. A little before the auspicious hour fixed for the marriage, the bridegroom goes to the bride's house accompanied by his house people and by a number of other men and women regulated according to his position and circumstances. When the auspicious hour comes a lamp is kept lit in Padinyâtta room (Sanctum Sanctorum) with certain other requisites, and the bridegroom takes his seat along with his companion serving as a witness on his right side and the bride on the left. What the bride then wears is one of the pieces of cloth brought by the bridegroom. The elders of both the parties pronounce blessing upon them, sprinkling uncooked rice. After this a middle-man ties a fixed sum of (കുറുപ്പുപണം) money with rice in a cloth, declares aloud the name of the respective Illams, or Kiriya, of the pair according to a certain formula, and hands over the amount to the Kâranavan of the girl.

21. Some affirm and others deny the existence of the practice of giving betel-leaf &c.

22. Vide answer to Question 20.

23. The custom prevails among the poor in certain places in South Malabar. This is strictly prohibited among all castes in North Malabar.

24. Vide answer to Question 23.

25. Yes. But not among Marumakkathâyam Tiyans. The male only is at liberty to do so.

26. Ordinarily, there is no sort of formality among the Nayars. In some places it is usual to send a piece of cloth called Mâttukacha. Among Marumakka-

thâyam Tiyans, the connection is dissolved by the man who acted as middle-man on the marriage day and another, and, in the absence of the former, two other men going to the woman's house and formally signifying the intention.

27. Yes. Among Marumakkathâyam Tiyans there is also the practice for a man to marry more than one girl.

28. No.

29. If the connection is only under the form of Sambandham, Vidâram Vekka or Ūzham Porukkuka, she sleeps and takes her meals in her own house. Otherwise it can be done in both the places. The wife generally lives in the husband's house in the case of Pudamuri or Kettikkonduvaral (marriage).

30. Vide answer to Questions 20 and 23.

31. Not necessarily. But if the alliance was contracted by Pudamuri or kalyânam and if the wife is brought to her husband's house it is incumbent on the man to maintain her and the children.

32. Both are prevalent. But the change is not frequent in many cases.

33. Certainly the man does.

34. Allowance is given or refused according as the Kâranavan and the Anandaravan of a Tarawâd are on good terms or not. According to the old custom, the Anandaravars used to give their earnings to the Kâranavan who in his turn met the expenses incurred by the former. It is not usual to make a special allowance to an Anandaravan who works for the Tarawâd.

35. They do both.

36. Both cases exist. Vide answer to question 34.

37. On the death of the husband when the wife is sent back to her tarawâd it is usual for Nayars and Tiyans of North Malabar to give her some furniture &c., under the name of Kattu stânam. When the gift is made to sons in the shape of landed property, the deeds are usually to the effect that the gift is made as Putrâvakâsam in North Malabar. The "Kattustânam" above mentioned is not customary in South Malabar.

38. I do not see any. Why is not this necessary for Marumakkathâyam Tiyans?

39. I think it more desirable that the marriage should take the usual form and then be followed by an easy mode of registration.

40. (1) When a woman has a husband living whom she has not discarded she cannot have a second Sambandham except in certain places. The man can have.

(2) Not compulsory now.

(3) Do.

(4) It is so even now. The Tiyans cannot marry from their own Gôtram.

1st Proviso. There are now caste restrictions upon marriage.

2nd Proviso. It exists even now.

41. I think it expedient to modify the third condition as follows:—

Each party must, prior to the marriage, obtain in writing the consent of his or her Kâranavan of the Tarawâd or if he or she be the Kâranavan then the consent of two senior Anandiravans.

Proviso. Any marriage contracted by parties who are more than twenty-one years of age without obtaining the said consent shall not be regarded as invalid.

But the man who contracts the marriage without obtaining such consent shall forfeit all claims to maintenance from the Tarawâd. In the case of a woman who does so, all claims to maintenance are forfeited. Her children too forfeit their claims to maintenance in the event of the mother becoming an outcaste by reason of such marriage.

I consider the amendment necessary for the following reasons:—

The man may be a member of a rich Tarawâd without any earnings of his own, and may even hold the status of the Kâranavan thereof. In such a case he may marry a woman of a low caste thinking that he could maintain her and her children from the subsistence allowance received from the Tarawâd or, could, if he be the Kâranavan, give them a share of the Tarawâd income which is thus misappropriated.

In like manner a poor man of a very low caste may entice and marry a girl of a very rich Tarawâd with the avowed object of subsisting on the maintenance given to the woman and children from her Tarawâd.

There are further objections in respect to the woman. Even when the marriage takes place under this law, her children are the heirs of the Tarawâd of her birth. Let us suppose that the woman belongs to a Nayar family of a very high status and that the man is a Mannân (caste washerman). It may eventually so happen that the Kâranavan of that Tarawâd would be descended from a Mannân.

Under the circumstances, the well-being of a Tarawâd will be greatly endangered. And in addition, marriages will take place wherein one of the parties is gained over by the other under a self-interested motive.

I doubt whether at the time Act 21 of 1850 was passed any consideration was given to the existence of a class of Marumakkathâyam people whose family was indivisible.

42. Adultery or misconduct on the part of the woman, and loss of caste are considered to be reasonable grounds for dissolving Sambandham.

43. According to the custom prevailing in South Malabar, a Nayar wife is to remain in her own house, and is as such entitled only to expenses other than food. The local usage does not make it compulsory to give anything to her children. In North Malabar the wife and children live generally in her husband's house and the man is therefore bound, I think, to provide them with food and clothing as long as they so live. This is also the case with the Tiyans in N. Malabar.

44. (a) The right to become a legal guardian should be forfeited not only by reason of a change of religion but also by becoming an outcaste.

(b). The right of the wife and her children to be members of her Tarawâd should be subject to the provision that she is not excommunicated by reason of her marriage connection.

The right to claim maintenance should remain,—

(1) In the wife, till her death, in case she takes no other man as her husband.

(2) In the daughters, till they are married, and

(3) In the sons till they attain the age of twenty-one years.

(d) In the case of the husband dying without leaving a will, half of his property should, I think, go to his wife and children and the other half to his Tarawâd. I consider that all reasons are in favour of this and that there is not a single circumstance contrary thereto

1st, A man's property should devolve in the same manner as he had inherited it. In the case before us, the man inherits the property of his Tarawâd as well as

that of his wife. Hence his property should by right go to his Tarawâd and to his wife and children.

2nd, The wife and children are heirs to the property of her Tarawâd and to the property of the husband. Hence the husband's property should devolve alike on his Tarawâd and on his wife and children.

3rd, A man is entitled to claim maintenance from his Tarawâd but not so from the property of his wife and children. On a consideration of this circumstance it will be found, that a man's Tarawâd has more claims to his property after his death.

4th, A man is entitled to be brought up, maintained and educated at the expense of his Tarawâd and this is enjoyed by right. I do not at all think it reasonable that under the circumstance the Tarawâd should be held to have no right to any property whatever of that man.

5th, If the property of the deceased should devolve exclusively on his wife and children, they should have no other means of inheriting property. But this is not the case.

6th, The right of the wife and children to enforce maintenance from the husband may be lost. The husband's claims to maintenance from the Tarawâd do not cease and can be enforced by him. Hence it is not reasonable to say that the Tarawâd has no right to his property and that it should devolve exclusively on his wife and children.

I apprehend that a law which declares that no member of a Tarawâd is entitled to the property of one who has been brought up, maintained and educated exclusively at the expense of that Tarawâd will interfere greatly and for a long time with the education of those who have no other resource than that of the Tarawâd incomes to look to for the purpose, as well as that of the male issue from the marriage solemnized under this law. For it is very hard that the Kâranavan of a tarawâd should at its expense educate his nephews to promote the interests of another tarawâd. It is difficult for the Marumakkathâyam Malayâlis to entertain the same opinion as is formed by those observing pure Makkathâyam considering the circumstances that the former have an indivisible tarawâd and its property and that they have been brought up, maintained and educated at the expense of the tarawâd. Hence a father who observes Marumakkathâyam rule and who has a respect for the tarawâd in consequence of the personal benefits derived therefrom, will never desire to see his sons happy and his daughters as poor slaves. The effect of this upon those in affluent circumstances will be to create a desire in the mind of the father that his children should equally enjoy his earnings and to desist as far as possible from educating his sons at a great cost in order to further the interests of another tarawâd. For he is not certain that his daughters will be married according to the form prescribed by the law. Under the circumstance above mentioned it will be difficult for him to have a greater liking for his son's daughter than his own. I think that this opinion can be understood by the Makkathâyakkar only after a very close scrutiny. This effect will continue as long as the present tarawâd system exists and can only cease with its extinction.

(e) When a woman becomes an outcaste by reason of her marriage, the husband should forfeit his right to make a will and his wife and children should in such case acquire the whole of his property. (Vide answer to question 41). Where one is competent to make a will there should be no restriction imposed.

45. The practice is known to exist.

(Signed) T. KUNHAMBU,

Tahsildar.

ANSWERS TO INTERROGATORIES
BY
M. R. RY. M. GOPALA MENON AVARGAL,
First Grade Pleader,
TELLICHERRY.

THE NATIONAL BUREAU OF STANDARDS

WASHINGTON, D. C. 20540

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

1957-1958 ANNUAL REPORT

MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. M. GOPALA MENON, AVARGAL,
FIRST GRADE PLEADER,
TELLICHERRY.

NATIVE OF SHRIKRISHNAPURAM,—WALUWANÂD TALUK.

1. Yes.

2. No.

3. Between members of Sudra and Chârnata divisions Sambandham (or marriage) is not generally allowable. But I know two instances in which Sudra men had formed Sambandham with Chârnata women; but I never knew anywhere a man of the latter division formed Sambandham with a woman of the former division. Between Chârnata, Vattékâtt, Athikurissi, Pallichân &c., inter-marriage is prohibited.

4. If Sambandham between prohibited division is formed, the woman is excommunicated by the authorities to which her caste is subject, and her kinsmen.

5. Such Sambandham cannot be validated by Prâyaschitham. But the woman can be taken back into the society on her performing Prâyaschitham.

6. Korapuzha is the recognised boundary between North and South Malabar for caste purposes.

7 and 8. Generally men of North Malabar marry in South Malabar, and I know a good deal of instances in which men of South Malabar have married women of North Malabar. Men of South Malabar, when employed in North Malabar, can freely take their wives with them to North Malabar, while North Malabar females do not generally cross the Korapuzha river and accompany their husbands to South Malabar, and therefore there is no necessity for South Malabar men generally to marry in North Malabar, while North Malabar men are obliged to marry in South Malabar. Further North Malabar women are far behind those of South Malabar in point of education, civilization, beauty and general accomplishments, and hence there are fewer instances of South Malabar men marrying in North Malabar.

9. I do not find any good and valid objection for North Malabar women crossing the Korapuzha river, and I have known some instances in which they have done it; but the majority consider it objectionable.

10. I think it was more on political grounds than on anything else that the objection, for North Malabar women crossing the Korapuzha river, originated, during the reign of the Zamorin and Kolathiri between whose territorial divisions the said river was the boundary. North Malabar people still keep up the objection though the reason no more exists, and they allege some religious and traditional reasons for the same.

11. *Tâlikettu Kalyânam* or the ceremony of tying tâli is, I should think, from the customs even now observed, the ceremony intended as the real marriage. It is compulsory for every girl to undergo the ceremony before attaining puberty, and in case of non-performance of it, she is excommunicated. In all the divisions such as Kiriyañil, Sudra &c., except Chârnatha, a man from their own division is selected to tie the tâli (or a small neck ornament) and he is called Pilla, or Manavâlan. An auspicious hour is fixed by the girl's guardians for the ceremony, after consultation with astrologer, and after examination of the horoscopes of the girl and the proposed bridegroom. The kinsmen and relations of both the parties are invited for the ceremony. Some hours before the time fixed for the ceremony, the girl's brother, or some one from her tarawâd, goes with relations and friends with betel, nut &c., to invite the bridegroom formally, and he is taken to some place near the girl's house where he is to remain till the auspicious hour. Just before the actual time the girl's male and female relations with lighted lamps go to meet the bridegroom and he is taken in procession to the girl's house, and seated in a pandal or shed erected for the ceremony. The girl's brothers, or other male relations, wash the feet of the bridegroom. The tâli (ornament) is purified by making some pûja or sacred offering; the Brahmans are given presents. The girl's father presents new clothes to the bride and bridegroom and they are to wear them then. The astrologer notifies the auspicious time, and the bridegroom ties the tâli to the neck of the girl in the presence of relations &c., who put flowers and rice on the bridal parties and repeat some songs; there is feast to all present. The bride and bridegroom sit together in the same room, and on the same mat or blanket for four days, and on the 4th day they are taken in procession to a tank for bath where also there are certain ceremonies to be observed. After return the bride serves the bridegroom with his meals, and she is to eat the remnant of the same. There is feast to relations &c., on that day also. On that day, or the next day, the bridegroom takes leave of the bride and relations. He is considered the husband of the girl, and each of them is to observe pollution on the death of the other. *The notion even now obtaining among old people is that the girl cannot take anybody as her husband without his consent, and in order to justify her taking anybody else without his consent, the bridegroom cuts the new cloth worn by him into two pieces by which ceremony, it is believed, the relationship of husband and wife is severed between them.* Among Chârnata division it is always a man of Nedungâdi caste that is to tie the Tâli and I am not aware that there is any more ceremony to be gone through after it. In N. Malabar it is Nambidi brahman who ties the tâli and there is no more ceremony among them.

12. I have answered the question (*Vide* the answer to Question 11).

13. Except among the Chârnata division, and in North Malabar, one man cannot tie Tâli to more than one girl at the same time and place. Each girl must have a separate Pilla, or Manavâlan. Among Chârnata, and in North Malabar, it is the custom for the same man to tie Tâli to a number of girls at the same time and place.

14. The Pilla, or Manavâlan, has the right to cohabit with the girl unless the cloth is cut into pieces, and unless the girl is unwilling to have him.

15. There is no objection to his forming Sambandham with the girl.

16. Yes. I know personally an instance of such Sambandham and that too in a very respectable family.

17. The girl has pollution among Kiriyaṭhīl, Sudra, Vattēkātt, Pallichān, Athikurissi, Ullādan and all others except Chārnata and Ambalavāsi divisions, and in North Malabar.

18. Yes. When the girl is very young, say below two years of age, or when there is no available man to tie the tāli, the mother does it.

19. Yes. I am not aware of anything other than the immemorial custom in justification of this.

20. Yes. There are some formalities. First the horoscopes are examined. Then the senior male member in the man's family makes the proposal to the girl's Kāranavan, and father, and an auspicious day is fixed. On that day the man presents betel and nut to all his seniors in the house, and takes their blessing, and then starts with his relation and friends for the girl's house, where they are received by her relations, to whom also betel and nut are presented. There is feast to all present, and presents to Brahmans and teachers of both the girl and the man. After meals both the bride & bridegroom are taken to the bed-room by their relations. Now a days there is also the practice of presenting clothes on the marriage day by the bridegroom to the bride, introduced among respectable families.

21. There were instances in which all the above formalities were gone through when Nambudiris and Pattars formed Sambandham; but I have heard also of instances where there were no formalities whatever.

22. There is some difference between North and South Malabar in this matter. In North Malabar it is called Pudamuri and invariably the bridegroom makes present of clothes and money to the bride, and the bride is taken to the bridegroom's house the very next day, or soon after that.

The formalities are the same throughout North Malabar, except in some minor details. The same is the case in South Malabar also.

23. *A woman can have sambandham with as many men at the same time as she pleases, though I know no such instance.*

24. No prohibition as far as I know of.

25. *A woman is at perfect liberty to terminate Sambandham according to her wish.*

26. *There is no sort of formality to be gone through in dissolving Sambandham.*

27. Yes.

28. There is nothing to prevent him.

29 & 30. In N. Malabar generally the woman takes her meals and sleeps in her husband's house. In South Malabar she generally does it in her house, except for a couple of months in the year, during which time she resides in her husband's house. But there is a vast change to be found in South Malabar also lately, especially among officials and men of private means.

31. I do not think that there is any recognised custom for the man to support the wife and her children in S. Malabar, though as I said before there is a thorough change in this direction also. But the man always gives her and her children oil, clothes &c. In North Malabar there is, I understand, the custom

recognised by the people, and by judicial authorities too to some extent, for the man to support his wife and children.

32. I know instances of Sambandham being frequently changed, and of one man and one woman being husband and wife for life living in perfect harmony. The majority is, at least during the present generation I should think, of the latter class.

33. If the woman lives with her husband and bears him children, he feeds and clothes them.

34. Allowance is made to Anandaravars by the Kâranavan if they work for the tarawâd. In some families Anandaravars cultivate tarawâd land for rent, and this practice is more common in Palghat Taluk and in North Malabar. The surplus, if any, is perfectly at their disposal, and they do take it for their own use.

35. In the majority of cases Anandaravars try to earn something for themselves, and this also is more common in Palghat Taluk and North Malabar.

36. They seldom hand over their earnings to their Kâranavan. They generally support their wives and children.

37. There is such a thing as Puthrâvakâsam. It is gift by the husband to his wife and children. In South Malabar also husbands do gift away properties to their wives and children. Both in North and South Malabar certain things used by the husbands, such as blanket, brass vessels &c., are given by his relatives to his wife and children. The practice of giving Puthrâvakâsam is more frequent in North Malabar.

38. There is no objection, as far as I can see, to providing a permissive marriage law for Nayars, though I should think that most of the evil now existing can be remedied by recognising the power of willing away properties.

39. I would prefer to retain the customary form of marriage. *In my opinion the present form is not at all insufficient, and registration is not necessary.* If it is deemed necessary to have any record as evidence of the marriage, I would be satisfied if the village authorities are enjoined to keep a register of the same, with the signature of the parties, or their guardians, and two respectable witnesses, a copy of which is to be sent forthwith to the Taluk Cutchery, where it is to be preserved and copy supplied to the parties on application.

40. (1) As I stated before (vide my answer to Question No. 27) a man having a wife contracts marriage with another now.

(2) I never heard of an instance of a man of Marumakkathâyam below 18 years of age marrying, but I know of instances of girls above 11 and below 14 being married.

(3) Generally it is with the consent of the guardians that Sambandham is formed now, even if the parties are not minors.

(4) No difference.

Provisoes. No difference.

41. I would add something to the very first clause to Question 40. As it stands now a Nayar may marry a washerwoman, or some woman of a lower caste

and he will have right to claim maintenance from his tarawâd. Again a Nayar woman may marry a washerman, or a lower caste man and she notwithstanding will have right to claim maintenance from her tarawâd. Therefore I think it is necessary to enumerate the different divisions between which marriage may be legalized.

42. Adultery, habitual disobedience, incurable and loathsome diseases and want of providing wife with oil, clothes &c., are considered, according to social usage, to be reasonable grounds for dissolving Sambandham.

43. The Nayar wives and children have no claim upon their husbands and father for maintenance but generally men of independent means support their wives and children.

44. (a, b, c). I have nothing to say against these.

(d) This clause requires in my opinion some alteration. I am not for giving the whole of one's self-acquisition to the wife and children. *I would give the wife and children only a third, and at the highest, half of a man's self-acquisition.* In many families boys are educated by the tarawâd, and it would be rather hard upon the tarawâd now to rule that the fruit of such education should be altogether lost out of it and the wife and children should get the whole. Further, aged parents are as much as, if not more than, wife and children, entitled at least to maintenance, and it will be harder still, I apprehend, upon poor parents in omitting them from the category of heirs. Similarly something might be said in favour of brothers and sisters. Again the wife and children have at present no legal claim, and progress should be step by step rather than by leaps and bounds. The bill, as it provides for the devolution of one's whole self-acquisition upon wife and children is taken by the public in Malabar as a revolution rather than a reform, and hence the apparent opposition to it.

(e) I have not only no objection but I think that *this is most urgently needed*. Want of such a provision is greatly felt by Malabar though our High Court has recently upheld Will to some extent.

45. I know of a good many instances of intermarriage between Nayars of British Malabar and those living in Cochin and Travancore.

In conclusion I beg to state that I was unable on account of my absence at my native place and my illness after return, to submit my answers within a week from the date of my receipt of the questions, for which, I pray, I may be excused. Further I wish to explain my answers a little more but I am afraid, I will be too long and therefore I refrain from doing it.

I beg to remain,

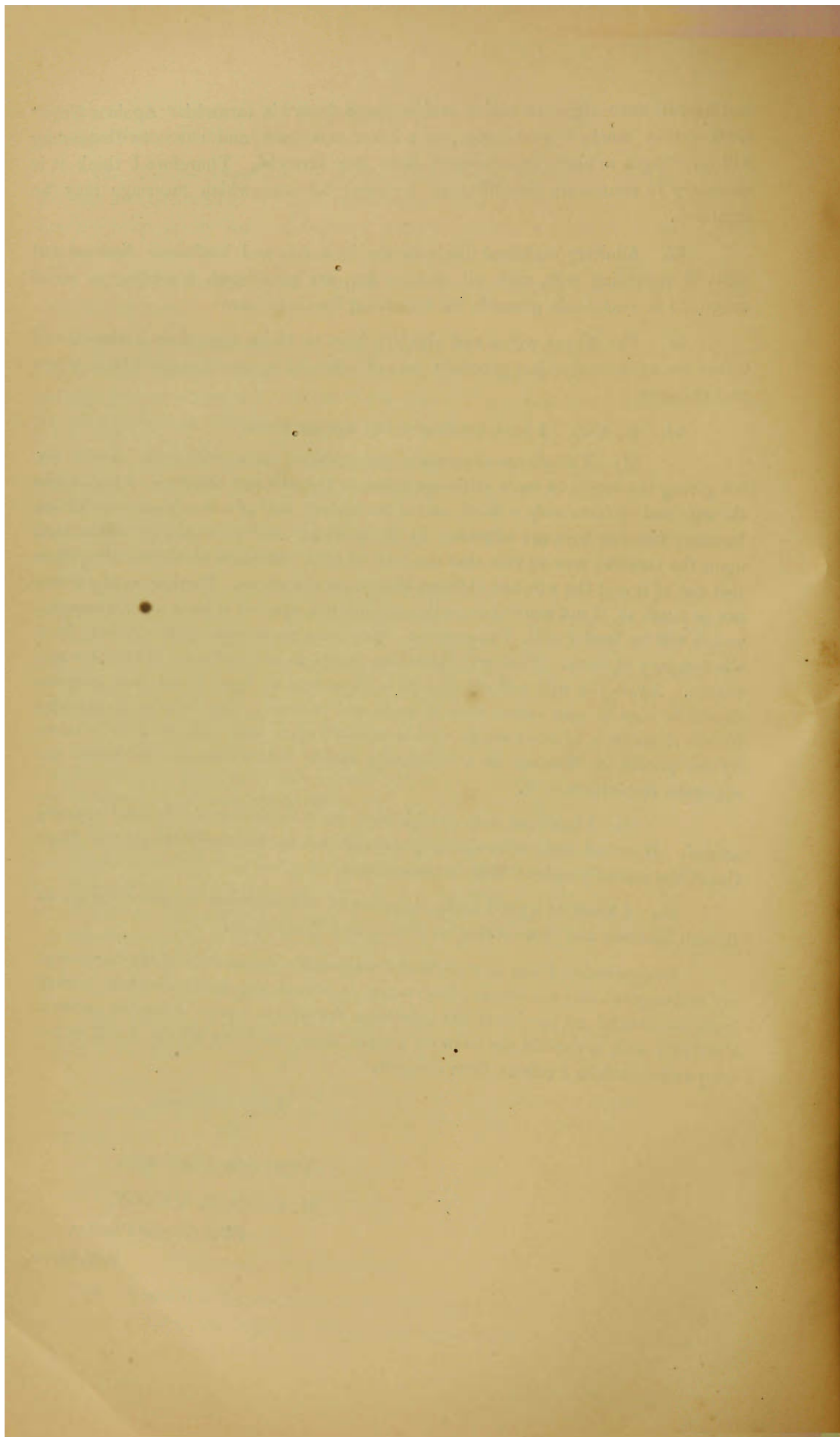
Sir,

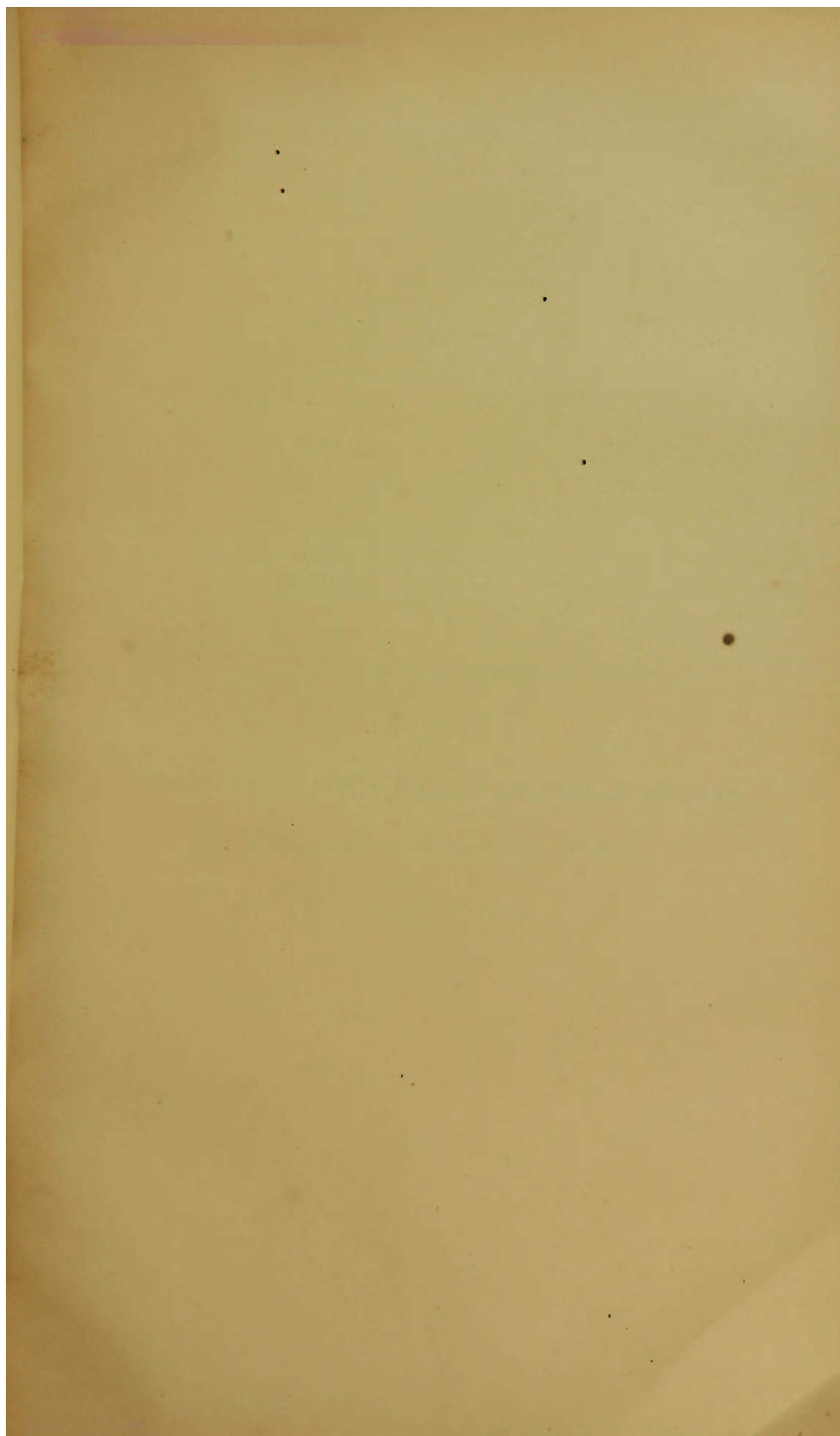
Yours most Obediently,

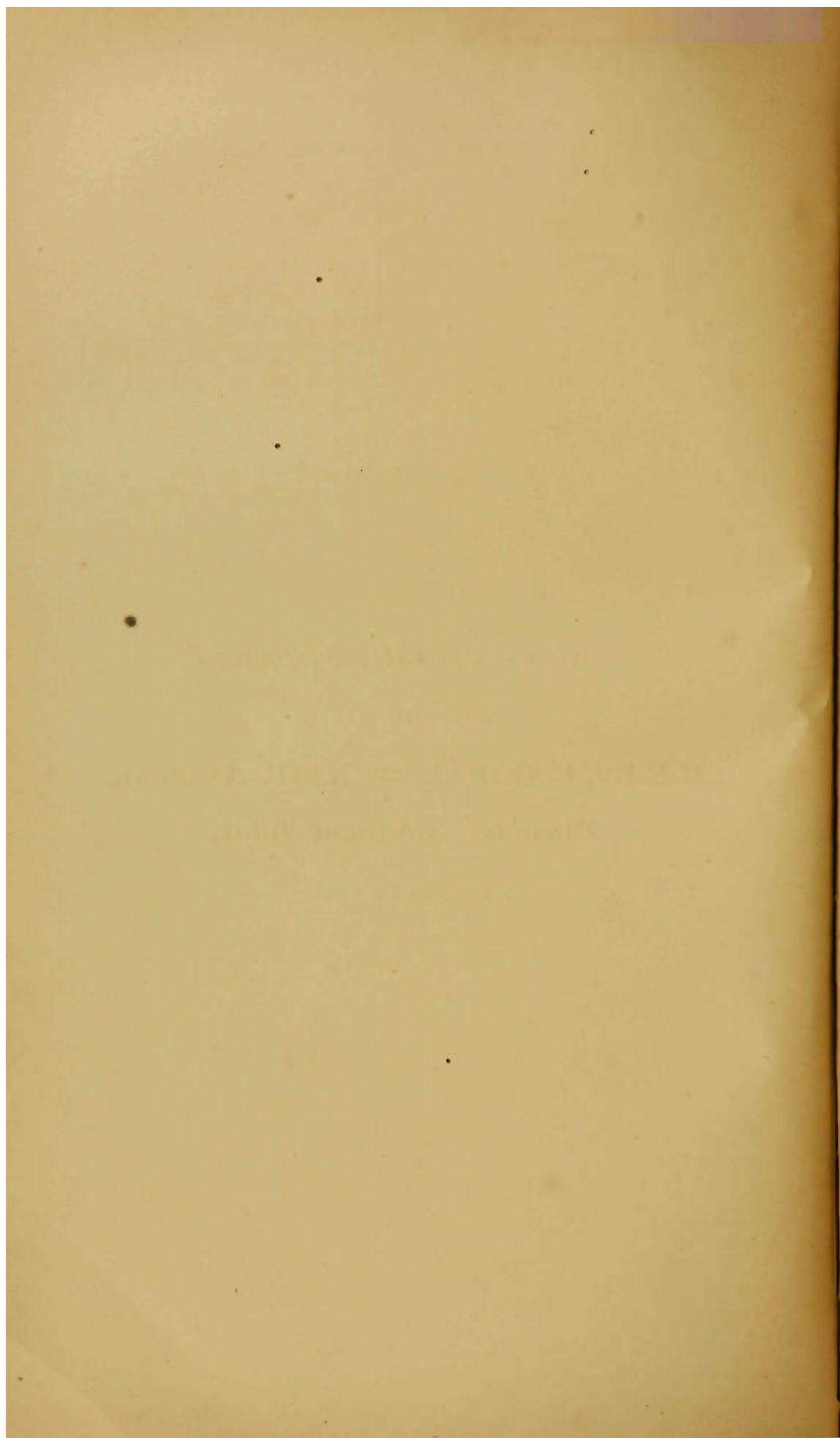
M. GOPALA MENON,

First Grade Pleader,

Tellicherry.







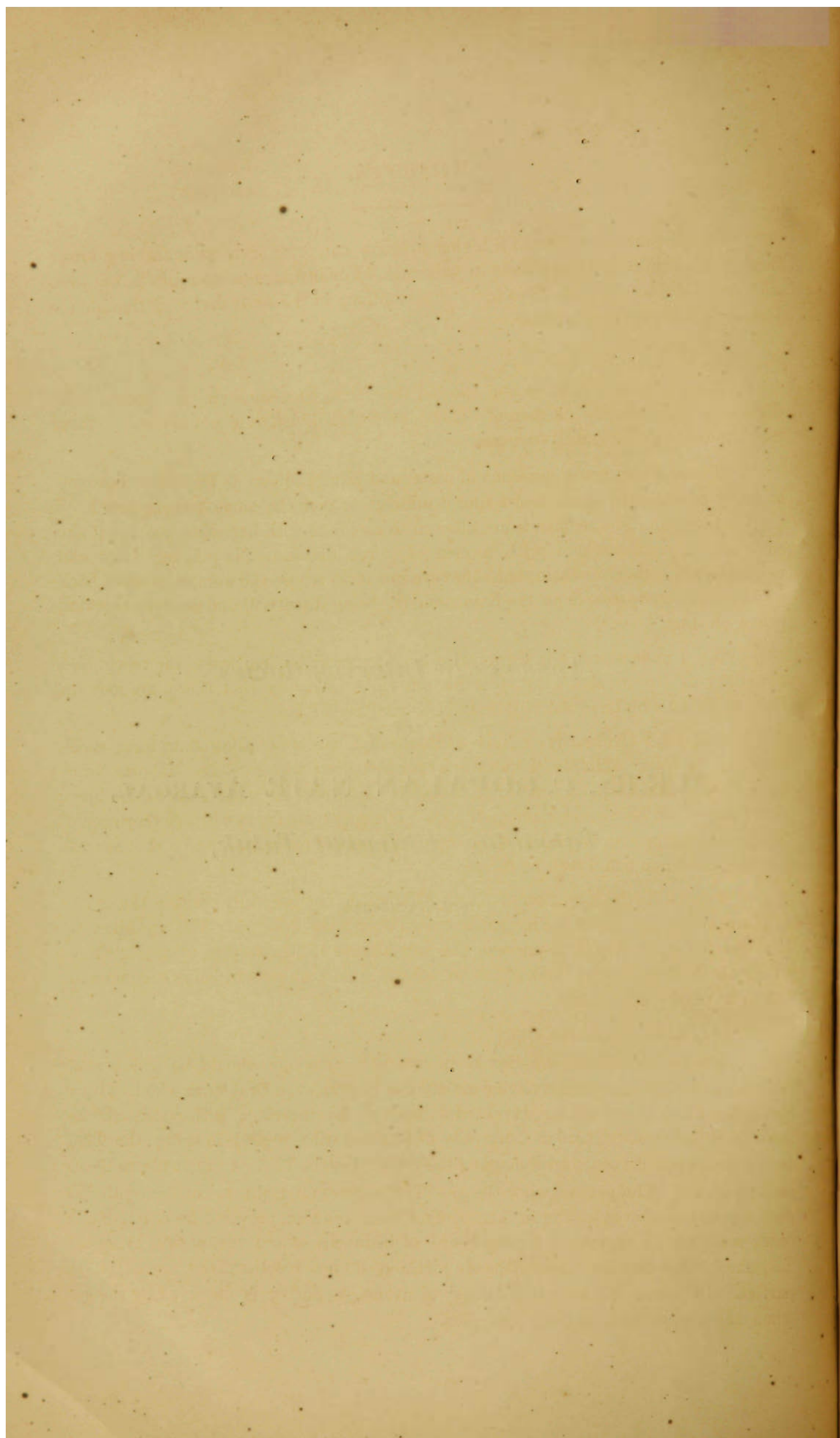
Answers to Interrogatories

BY

M.R.Ry. C. GOPALAN NAIR AVARGAL,

Tahsildar, Chirakal Taluk,

CANNANORE.



Answers.

1. Ordinarily a man of a higher division can form Sambandham in a lower division, but there are exceptions to this rule. For instance a man of *Chârna* division is not *ordinarily* allowed to form Sambandham in *Vattekkât* division, though the former is superior to the latter.

2. No.

3. A *Chârna* Nair is not allowed to form Sambandham in *Sudra* Nair division and *vice versâ*. A man of *Chârna*, or *Sudra* division is not allowed to form Sambandham in *Kiriyathil* division.

There are so many divisions of caste, and Sambandham is forbidden between so many of these divisions, that I find it difficult to give the same here in detail.

4 and 5. The woman is not allowed to associate with her caste people if she contracts a Sambandham with a man of lower division. No *prâyaschittam* can validate such a Sambandham, but there are instances where the woman is taken back by her own caste people on the Sambandham being dissolved, and on her observing *prâyaschittam*.

6. I understand it is *Korapuzha*: even for ordinary purposes, the recognised boundary is *Korapuzha*. But I think am right in saying that there are men in *Calicut Taluk* who have Sambandham in *Kurumbranad Taluk*.

7 and 8. Ordinarily a Nair of South Malabar is not allowed to form Sambandham in North Malabar. I know however instances where South Malabar Nairs have formed Sambandhams in North Malabar. I do not see what reasonable objection there could be to such Sambandhams. The only question is whether there could be any objection with regard to the caste of the parties concerned, and if that agrees, the Sambandham could well be formed.

9 and 10. Nair women of North Malabar do not generally cross to the south of *Korapuzha*, but there are instances where they have done so. The tradition is that the *Kolathiri Rajah*, to prevent the inhabitants of his country from migrating to South Malabar, issued orders that no woman should, on pain of being excommunicated, cross the *Korapuzha*.

11, 12, 13, 14, 15, 16 and 17.

Among the Brahmans the *Kalyânam* *i. e.* marriage, should be celebrated before the girl attains puberty. To satisfy the *Sudras*, the Brahmans who had then the upper hand in everything, invented an apology for marriage with which *Sudras* were to be content. There is a diversity of practice with regard to tying the *Tâli*. In the *Sudra* sub-division, an *Enângan* (എണക്കൻ) ties the *Tâli*. In some places Brahmans tie *Tâli*. The person who ties the *Tâli* secures no right to cohabit with the girl, but there is no objection to his forming Sambandham, provided he is eligible in other respects. I remember having heard of instances where the person tying the *Tâli* has formed Sambandham with the girl, but do not recollect the names of the parties. In some of the sub-divisions of Nairs, pollution is observed by the girl when the person who tied the *Tâli* dies.

13. I do not know.

19. Yes.

20. The same formalities as are to be observed in ordinary Sambandham.

The consent of the Kâranavan, or parents, of the woman being first obtained, a day is fixed when the man goes with his friends, and is feasted at the girl's house. The Sambandham is celebrated in different parts of the District in different ways.

21. I think so.

22. No.

I think the formalities are the same throughout North Malabar.

The formalities throughout South Malabar are the same.

23. Of course, not.

24. It is prohibited as such a thing cannot in decency be allowed.

25. Yes.

26. Yes. The man informs the Kâranavan of the woman's family the grounds for the dissolution of the Sambandham.

27. Yes.

28. No.

29. Ordinarily at the Sambandhakâran's house, except in cases of Vîdâram kayaruka where the woman lives in her own house.

30. No.

31. Yes, when they are with him.

32. The Sambandham generally lasts for life.

33. He does feed and clothe them.

34 to 37.

38 to 44.

There is in my opinion no objection to providing a permissive Marriage Law for Nairs. I have consulted several persons on this point with the result that though some of them first raised their voice against what they call "Makkatayam Law," and against what Sri Parasurâma laid down centuries ago, they admitted that it is necessary that adultery should be made penal, and that one's children should get at least a share of the father's property. There is an impression in the minds of the people that the present system of Sambandham, Pudamuri, or Vîdâram-kayaruka is as binding as any legal marriage among other nations. They would not believe that the present custom has been, and would be, impugned in a court of Law; and if the people understand that there is no legal marriage now, I believe many would desire that there ought to be a Law legalising marriage. But I would not compel the people to adopt an entirely new form of marriage. I would prefer to retain the customary form and make registration of the marriage evidence of its legal recognition. By registration, I do not mean that the marriage should be solemnised *in presence* of the Registrar. I would suggest the following procedure

The bride and the bridegroom shall sign a declaration that one takes the other as her (or his) lawful husband (or wife) in presence of their guardians, and these guardians shall make a declaration before a Munsiff, a Magistrate, or a Registrar, or say the Head of the village, that the marriage has been duly solemnised. To such cases where the guardians do not consent, and where the bride and the bridegroom have attained majority, they must be allowed to appear before the Registrar and sign the declaration, always provided that such marriages, if between castes or sub-division of castes where Sambandhams are now forbidden, would entail on the offending party the penalty of not being allowed to associate with his or her other caste people *i. e.* if a woman of a high caste, or sub-division of caste, chooses to marry a man of a low caste or sub-division, there should be no objection to the marriage, provided they have attained their majority: and provided that the woman should not be allowed to associate with her Tarawad, or should forfeit her rights in the Tarawad. The declaration should be filed in the Registrar's office.

Under the present system of Sambandham, the man may have Sambandhams in more than one house; but the woman may not have more than one Sambandhakâran. It is necessary that the party should at the time of marriage have no wife or husband living. There is at present no restriction of age, and it is desirable that the man should have completed the age of 18 years and the woman fourteen years. "Each party must, if he or she has not completed the age of 21 years, have obtained the consent of his or her legal guardian *or parents* to the legal marriage." I add the word "*or parents*" as the legal guardian would, under the Marumakkatâyam Law of succession, be the Karanavan of the Tarawad, and there are instances where the Karnanvan's consent need not be asked, say a Karanavan of the Tarawad may belong to a different branch altogether but would still be "legal guardian" in his capacity of "Karanavan." Clause 4 (Question 40) is a desirable condition, but with regard to the provisos, I find some difficulty. Referring to 1st proviso, I observe that a Tiyan may marry a Nair woman and *vice versa*, if the word "or caste" is not added after "affinity." I do not see any objection to such a marriage if the parties choose to do so, but then the provision (*vide* condition *b* Question 44) that "the wife and children shall retain their rights as members of the Tarawad" would be inconvenient, and would affect the purity of the caste system. An alliance with a lower caste is considered improper, and it is therefore necessary that provision ought to be made to the effect that the husband and the wife contracting marriages, which are now forbidden with reference to caste system, and the children born to them, should forfeit their rights as members of their Tarawad.

The 2nd proviso speaks of relationship traced through a common ancestor standing to each of the parties in a nearer relationship than that of great-great-grandmother." As it stands, a marriage is allowable if the relationship can be traced to a common ancestor who is the mother of the great-great-grandmother. In the eyes of people following Marumakkatâyam Law of succession, such a marriage is forbidden and is considered detestable. There are some houses in Malabar that have split up into so many branches, that one branch actually does not know that another exists. Yet if one were to propose a Sambandham between members of those very distant branches no one would ever allow it in Malabar. I would leave the question of relationship to be fixed in accordance with custom. No man can take a woman as wife and no woman can take a man as husband, if the relationship be such as falls within the prohibited degree under the Marumakkatâyam custom.

(Question 42). The reasonable grounds for dissolving a Sambandham are adultery on the part of the woman, and impotence on the part of the man. In considering the expediency of passing a Marriage Law, it is necessary to consider whether a divorce under a given state of things should be allowed, or whether the woman should suffer perpetual widowhood. The latter state of things (perpetual widowhood) cannot be allowed for obvious reasons—and then on what grounds and how can a divorce be effected. Adultery, ill-treatment, cruelty, desertion, impotence are the ordinary grounds on which a divorce may be effected. How is it to be effected? It is unpleasant (and, I do not think the proposal would be acceptable to the people) to resort to a court of Justice to effect a divorce. I would suggest that the party seeking a divorce should apply to the Civil Courts to constitute a Matrimonial Court, the members of which should be partly selected by the husband, partly by the wife, and partly by the Court. The members should be of the same community as that to which the parties belong, and their decision should be final.

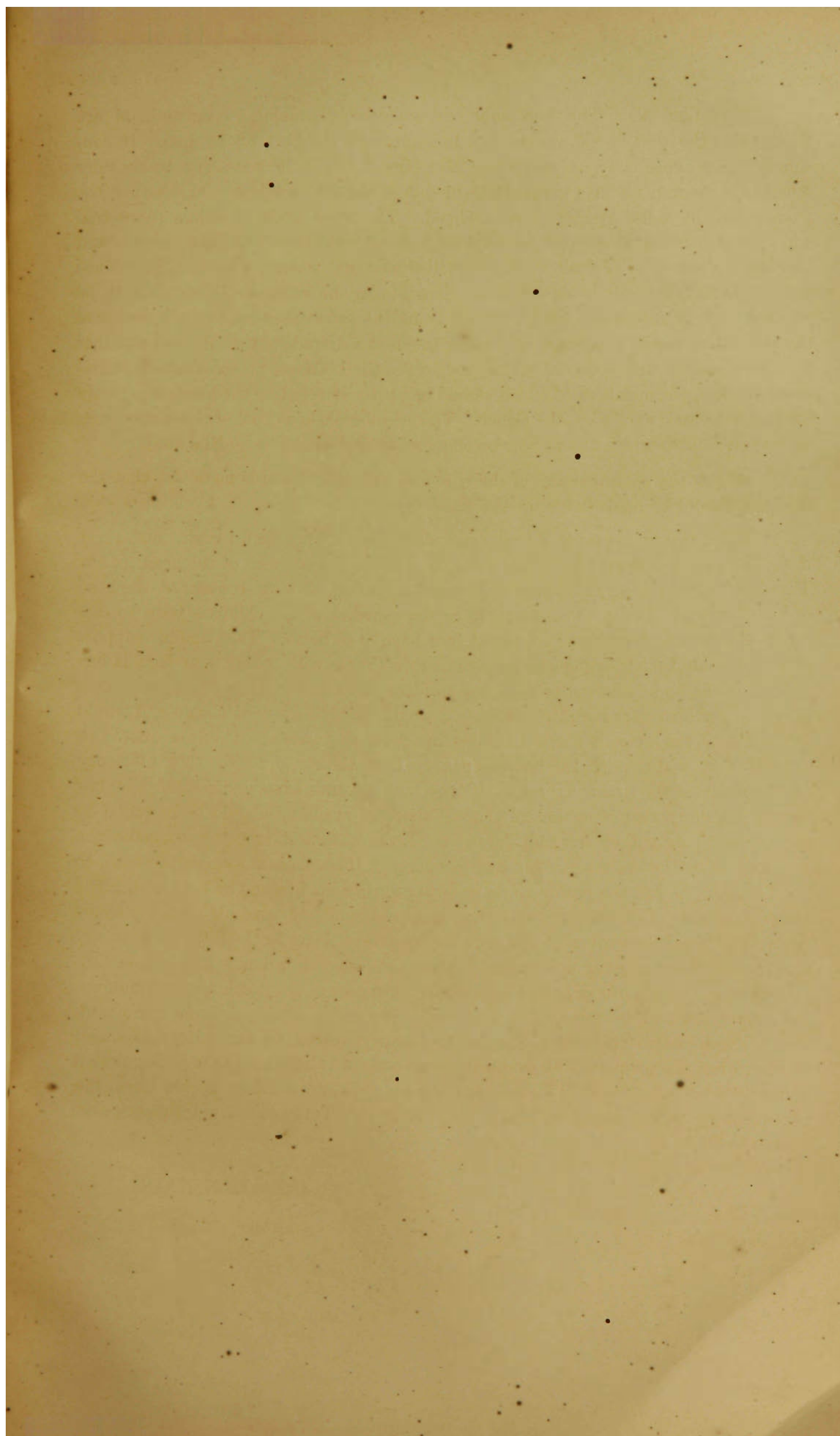
About the maintenance of the wife and children, there is no doubt that the husband should be made liable for the same.

Referring to clause C. I find some difficulty. "She shall forfeit such right if she becomes a convert to another religion without the consent of the head of the Tarawad." Supposing that the wife becomes a convert with the consent of the head of her Tarawad, is she to continue to be the guardian of her children born to her *before* she became a convert? I would not have it to be so. Then again, suppose she loses caste by her contracting a marriage with one with whom marriage is forbidden, is she to be allowed to take her children, born to her during her first marriage, into her own guardianship? Clause *d* would do well—but in clause *e*, I would suggest that the specific share to be set apart for the wife and children should be shewn, as it will require the interference of Civil Courts to decide the sufficiency or otherwise of the provision made. There are several who desire that the law should lay down that a portion of the self-acquired property should be inherited by the nephews, or rather by the Tarawad. I think that it is better to make the acquirer to be the disposer of his own property. If he chooses to give anything to his Tarawad, he has the power to do so either during his lifetime or by a will. The question might be asked why the father could not similarly give his property to his sons, but I would answer that the sons are by nature heirs to the father's property and that a system of marriage implies inheritance also. A father would be reluctant to make a gift of his property to his children, as in case of the death of these children the property would devolve on the children's Tarawad, probably leaving him penniless. There is also the risk of the father being divorced by the wife, subsequent to the gift of the property. I would there recommend that the whole self-acquired property of a person should be inherited by his wife and children on his death, the testamentary power being sufficient to provide for Tarawad should the acquirer choose to do so.

CANNANORE, }
May 30th, 1891. }

C. GOPALAN NAIR,

Tahsildar, Chirakal Taluk.



CALICUT:
PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. B. K. MADHAVAN NAMBIAR AVARGAL,

TALUK SHERISTADAR,

1. Yes, but not without restriction as in answer to question 3 (*infra*).
2. No.
3. It is forbidden in all cases except in the case of a man of the first, or Kiriya, caste who is allowed to do it in all divisions of Nairs. No, neither.
4. It subjects the woman to degradation from caste.
5. No Prayaschittham can validate such a Sambandham.
6. Korapuzha is the recognised boundary. Though intermarriages between recognised divisions on either side of the river up to Valusseri Kottai and Payyûr Mala are not uncommon at present.
7. Sambandhams between North Malabar men of recognised divisions and South Malabar women are very common. But the reverse is very rare.
8. No, not as a rule.
9. No, not allowed. The penalty being excommunication.
10. This prohibition must have had, I think, its origin in the difference of allegiance owed by the people on either side of the river.
11. *Tâli*, a woman's neck ornament, is the *sacred emblem* of her married life.

It is held so sacred by a Hindu woman that she never dares to wear it except when put on for the first time by her husband at the time of marriage, and then she never takes it out of her neck except on dissolution of marriage by his death. In fact, she begins her married life by the tying of her *Tâli* by the husband, and ends that life by breaking it off her neck on his death. Such a thing is the *Tâli*, and the phrase the *Tâli-Kettu Kalyânâ* is nothing more nor less than the ceremony of tying *Tâli* on to the neck of the bride by the bride-groom. There need be no doubt therefore as to what the ceremony really means. But my difficulty is to give a name to what is being now performed under that designation by Nairs. It is neither a marriage, nor even a betrothal ceremony, in as much as it does not involve a gift of the bride in favour of the bride-groom, either by *actual delivery*, or even by a *word of promise*. As it is, it is nothing but an empty ceremony resulting in no legal or moral consequence. At best I may call it a mock marriage, in which empty formalities are all present, but the vital element absent. There is no doubt that it once represented a perfect marriage, but that its vitality has since been robbed away purposely by the wily Nambudiri, with the evident object of serving his selfish ends at the expense of his ignorant and illiterate Nair slaves. The Nambudiri found that for the well-being of his Tarawâd, and for the permanent security of his property, marriage should be restricted to his eldest son to keep up the line, and that the younger sons

should be made to consort with Nayar females. With this end in view, he set himself to clear his way by introducing a change in the Nayar's law of Inheritance, first by stealing away the vitality of their marriage, and then by some of his own class setting an example by themselves following the proposed law. Thâzhakot Ammon of North Malabar is a remnant of the said innovators, and a living monument of Nambudiri villany.

The Nambudiri cared only for the vital element of the Nayar's marriage. He sanctioned the observance of all the empty formalities, either because he wished to dupe the Nayars perhaps for refusing to do away with marriage altogether, or because he knew that their observance would only be to his benefit at the expense of Nayars whom it was his avowed interest to put down for ever, in order to secure permanency to his own supremacy.

The empty formalities allowed by the Nambudiri, and observed strictly in practice to-day are:—

- i The fixing of an auspicious hour (Heaven knows for what!) by a ceremony called Ashtamangalliam (അഷ്ടമംഗല്യം).
- ii The escorting in procession of Manavâlans to the wedding Hall.
- iii The introduction of the girls to their seats in the Hall, by the side of their respective Manavâlans.
- iv The announcement of the hour by the astrologer.
- v The response of the girl's guardians signifying consent and approval.
- vi The tying of the Tâli on to the necks of the girls by their respective Manavâlans.
- vii The distribution of money presents to Brahmans assembled, in addition to the feasting of them from the day previous to the commencement of the ceremony and continued for 4 consecutive days during which the ceremony is to last.
- viii On the 4th day the Manavâlan's rending of the wedding garment into two in token of a dissolution of their marital union, closes the ceremony.

Here I beg to ask what do the girls, or their Karanavans and fathers, derive by performing such a ceremony in which an only sacrament is done and undone at the same time? My surprise is even more when I find that in the performance of this empty ceremony large sums of money are expended and debts are contracted so as even to ruin the Tarawâd. In fact the scale in which this ceremony is performed is taken as an index of the means and influence of the Tarawâd. In order to allow its performance on the grandest possible scale, the ceremony is performed only once in 12 years in a Tarawâd, and then all the girls who are then under age are made to go through it at the same time. Some gratitude is indeed due to the Brahman for performance of this ceremony in respect of any number of girls at the same time, or there would be practically no interval to clear off the debts in which a Tarawâd must be involved in feasting and gifting the Brahmans on the occasion. The Brahman fills his pocket and stomach while the foolish and credulous Nayar loses his all and gets nothing. Such is the ceremony called *Tâli-kettu kalyanam* as performed in the present day.

12. The Tâli is tied by a person selected from among kinsmen, or Enangans, of the girl. But among aristocratic Tarawâds and among others claiming distinction

the selection is made from among Kshatriya Tirumulpads. The person tying the Tâli is called a Manavâlan.

13. Yes ; but the rule is that there should be one Manavâlan for each girl separately. The Brahman (Nambudiri), whose pocket is untouched by the change, sanctions it, and the ignorant Nayar accepts and follows the sanction as the unquestionable authority.

14. No, not as a right.

I can only explain it by stating that it would be against the *public policy* of the day to allow him to claim it as a right, because the ceremony which creates that right would thereby be rendered perfect, and then the Nambudiri's interest might be jeopardized at least in the long run.

15. There is no prohibition whatever.

16. Yes. But I am afraid it does not in any way improve matters. Unless he is allowed to claim it as a right Kettu Kalyânam must be a farce.

17. A pollution is observed by the girl on the death of her Manavâlan even though he was not her husband. This practice has reference more to locality than to divisions, I think.

18. Yes, the Tâli is sometimes (especially in North Malabar) tied on by the girl's mother. Even this fact is not sufficient to convince the Nayar of the unmeaningness of his ceremony. He spends more than he can afford, contracts debts so as to ruin his Tarawâd, and not unfrequently runs, and is driven, into Criminal Courts for offences committed on still more frivolous grounds, all in the performance of his unmeaning ceremony.

19. Yes.

No, nothing but custom.

20. The formalities of a *Pudamuri* ceremony are always necessary. I may here remark that the desire never comes from the girl direct, but only through an understanding of her guardian or elders.

They are the formalities of what is called *Pudamuri* ceremony. This is a perfect marriage in the Gandharva form, which is one of the eight forms recognized by the Hindu Sâstras. It is founded upon mutual love and consent of the parties.

It is the gift of a number of cloths by the bride-groom to the bride, on an auspicious hour fixed with reference to the horoscopes of both parties, in the presence of relatives and friends on either side assembled for the occasion, generally in the house of the bride, after treating the guests assembled to a banquet and after distributing money presents among Brahmans.

In some cases a number of gold or silver coins are also presented with the cloths to the bride. These presents are generally made on a shawl, or mat, spread between unusually large lamps lit up for the occasion.

Among the conditions insisted on, may be mentioned the following :—

That the parties are not related to each other within prohibited degrees.

That the consent of the relatives (Fathers, mothers, uncles and brothers) and even of kinsmen of both parties are previously obtained, especially when the parties are minors.

21. Yes, there is practically no difference.

22. I do not think there is any noticeable difference.

I think the same.

I am not aware of any remarkable difference.

23. No. Never, except perhaps in Nedunganad and that among very poor orders, and even among them it is treated with contempt.

24. It is prohibited, and the prohibition is to be found in the treatment of it, where it exists, with abomination by people now and heretofore. It is regarded as beastly and opposed to humanity.

25. She can do so but not without the consent of her elders, in the generally accepted practice.

26. There is a sort of formality.

When the question is raised on her side on insufficient grounds, it is discussed and decided by the elders (father, uncles and brothers) as they think best.

27. Yes.

28. Nothing except the pleasure of his wife, and the difficulty to obtain the consent of the elders of the woman he seeks to obtain as 2nd or 3rd &c. wife.

29. In the accepted modern practice she sleeps and takes meals in her husband's house. But the wife remaining in her house and being visited there by the husband is also common, more among the poorer classes.

30. The rule I think is the same, but a laxity is allowed to a greater extent in South than in North Malabar.

31. Yes. But if the man is poor and the woman is rich, the order might be found reversed.

32. The rule is certainly for one man and one woman to cleave together for life. Frequent change is also not uncommon, but is only an exception. The fact that a man who changed his Sambandham on an unjustifying ground is viewed with distrust, and that he meets with difficulties in forming another, may be cited as an illustration. In fact unions for the life of the wife, unions for the life of the husband, and temporary unions are almost equally prevalent everywhere in the District. But the two former are to be found more among the well-to-do class, and the last among the poorer classes.

33. The wife and joint children while in the house of the father, are without exception fed and clothed by the father.

34. There are instances of both. I think it depends more on the means of the Tarawâd than anything else.

Yes, but only in Tarawâds of limited means, Anandravans take lands on simple lease. Kânam and other superior tenures are common among Anandravans of well-to-do Tarawâds.

Yes.

35. In well-to-do Tarawâds the Anandaravan, as such, tries to earn something for himself. Otherwise in Tarawâds of limited means.

36. With their earnings they support their wife and children, and instances in which portions of earnings are made over to Karanavan for the benefit of the Tarawâd are also not very rare. In well-to-do families wives and children of Anandravans are fed and even clothed by their Tarawâd.

37. The gift by a father in favor of his children, which is common in South Malabar, may be regarded as analogous to it. In South Malabar fathers not unfrequently settle in favor of wife and children the whole or portion of their self acquisitions, and sometimes even portion of their Tarawâd property defrauding their Tarawâds.

38. For my part I not only do not see the slightest objection but consider it high time that those who wish it at least must have it. I cannot find any reasonable objection though I have my fear that there will be strong and vehement opposition from bigoted, uniformed, unconsidering, and Nambûdiri-ridden portion of the community, and that they may be numerous enough to form an over whelming majority; but the permissive form in which the Bill has been framed may, it is hoped, help to minimize the opposition. For my own part I am not very particular as to the form though I would have it performed in any of the modes under the Hindu Law more than under any other. I would do away with a Registrar, or registration.

Marriage among other Hindus is not registered and this want is never considered a defect in law. Marriage under the Hindu Law is not only a contract but also a Sacrament, and as such registration like ordinary contracts does not commend itself to me.

I shall be content with a legal recognition of even the present form without its patent absurdities.

40. I do not see any material difference.

(1) This condition is not insisted on.

Proviso 1. That the bridegroom is of a caste equal or (recognised) superior to that of the bride is also a condition at present.

41. I would omit the 1st condition which so far as regards the husband is *un-Hindu* though equitable.

42. i. Mutual consent.

ii. Adultery.

iii. Cruelty.

iv. Change of Religion.

v. Caste degradation, and

vi. Relation within prohibited degrees. Desertion can only be allowed in case of loathsome and contagious disease, but not dissolution.

43. The father feeds and clothes his children suitably to his position and means during his life. He also educates his children. After his death however his wife and children will have to depend entirely on their Tarawâd and on any property which may have been settled upon them by their father while alive.

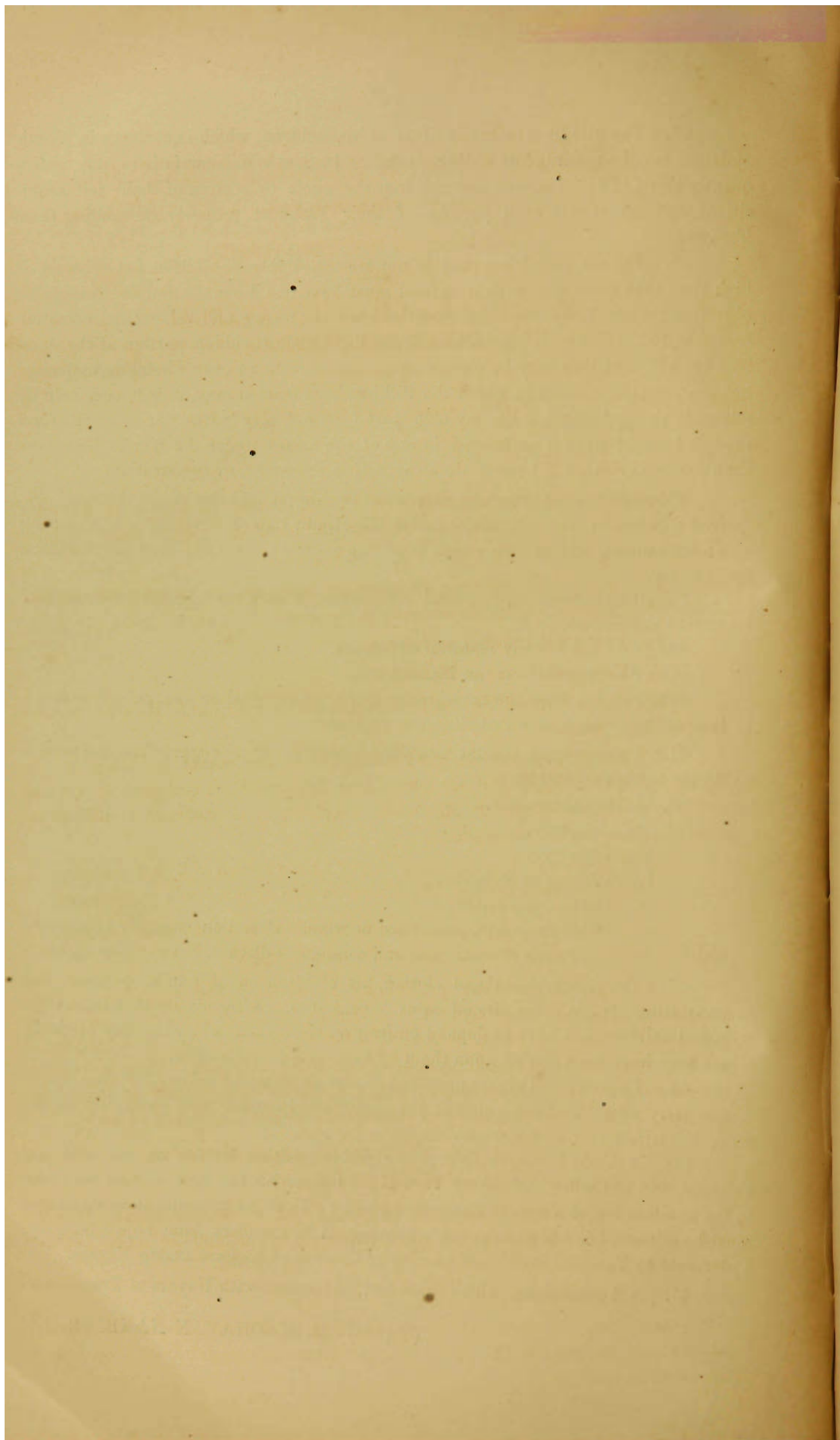
44. I agree to all rights proposed except those noted below.

(c). After husband's death, the guardianship must pass jointly on to the wife, and wife's Tarawâd Karanavan.

(d). I would have one half of my self-acquisition devolve on my wife and children, and the other half on my Tarawâd. Otherwise the new system may lead to the annihilation of Tarawâd institution which (with all its demerits as to marriage) must be admitted to have the power of saving all its members from abject beggary. I attribute to Tarawâd institution the entire absence of beggars among Nayars.

45. Not uncommon with Cochin but uncommon with Nayars of Travancore.

(Signed) B. MADHAVAN NAMBIAR.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. A. CHATHU AVARGAL,
HUZUR SHERISTADAR,
CALICUT.

(Caste.—*Marumakkathâyam Tiyan.*)

1. Yes.
2. No.
3. This is an intricate matter and I am unable to answer it correctly. Men of higher denominations, can contract sambandham with women of lower denomination, but not vice versâ.
4. Yes. They and their offspring are forbidden to mingle with others. A sort of excommunication from society is the result.
5. I have not heard of such a case.
6. Kôrapuzha river at Elathûr.
7. North Malabar Nayars form sambandham with south Malabar women, but not vice versâ.
8. No. The reason assigned is that the woman cannot be taken to the South and that in South Malabar many lower denominations not properly entitled to the appendage of Nayar or Menon do adopt it, thus making it difficult to ascertain their lawful social status.
9. The custom does not allow it, but I have known of 2 or 3 instances in which they have broken through the custom on plea of going on a pilgrimage.
10. On account of political reasons originated at a time when the Zamorin and Kôlathiri dynasties were on unfriendly terms.
11. This is ceremony preliminary to wedding and supposed to be an imitation of Brahman marriage. The ceremony must be performed before the girl attains puberty, or excommunication is the result. The details attending it are too numerous to be described, and vary in different places. This is believed to be a religious and holy ceremony, but the present generation cut short the ceremony by not observing many of the superfluous and antiquated adjuncts.
12. Only elderly females. No name for such in Malayalam.
13. Yes, and it is on grounds of economy.
14. Not amongst Tiyaars, the Tâli being tied by females alone. If ever a man ties the Tâli it is because the girl is betrothed to him, and he alone becomes her husband.
15. See answer to 14.
16. Yes. My own brother-in-law (Tharay Ramunni 2nd grade pleader, lately deceased) tied the Tâli of his wife and afterwards married her according to the usual ceremony.

17. Not unless the man is the girl's husband.

18. Yes, but generally by the elderly female relations.

19. Yes most certainly, but there is nothing but time-honored custom to be pleaded in justification of this.

20. Amongst *Tiyars* and *Nairs* the real marriage ceremonies are absolutely necessary. The formalities differ in different classes and localities. The points common to all are 1. examination of horoscopes. 2. proposal by the senior member of the man's family to the senior member of the girl's family. 3. betrothal: fixing an auspicious day for the wedding and 4. going to the girl's house on the appointed day with relations and friends, and after feasting and receiving blessing from all elderly persons, going home with the bride.

21. I do not know.

22. Amongst *Tiyars* there are differences not worth mentioning.

Now it is the same; formerly there were in Cannanore some formalities unknown to *Tellicherry*, and vice versa but they are all obsolete now. I hear they are mainly the same.

23. Cannot. This is unheard of in North Malabar, but in South Malabar it once existed, but the growth of civilisation uprooted it I hear.

24. Custom prohibits it, but I am unable to quote authority.

25. Yes, but only for good reasons and with the knowledge and consent of the senior members of her, and her husband's family, and of mutual mediators.

26. Yes, the mediators go to the woman's house and apprise them of the fact. Amongst respectable families this is invariably done.

27. Custom allows it, but no respectable man of the present generation has been heard of having done so.

28. Nothing.

29. Generally in the husband's house. The exceptions are very few if any.

30. In South Malabar the opposite is the rule, but the wives of officials generally live with their husbands.

31. This is the established and recognised custom in North Malabar. If the woman and her children visit her *Tarawâd* house no separate maintenance is given by the husband, because it is considered unbecoming for him to do so and for the *Tarawâd* to accept it. The extra expenses, however, are always met by the husband.

32. To cleave together for life.

33. He invariably feeds and clothes them.

34. Nothing but maintenance of him and his family. Very seldom the *Anandiravars*, if they have no other field of enterprise, cultivate the *Tarawâd* land for a rent, and in such cases the surplus is their own.

35. If harmony exists between the *Kâranavan* and *Anandiravars* the latter work for the *Tarawâd*, otherwise they try to earn something for themselves and their near relations.

36. *Anandiravars* very seldom hand over their earnings to the *Kâranavan* now a days. They live in the *Tarawâd* house, only if they are in unity with *Kâranavar*. In this case the *Kâranavan* will not insist upon the *Anandiravars*

giving anything towards the support of their wife and children. If the Tarawâd is poor and the Anandiravars rich the latter do give a helping hand.

37. Any gift by a formal deed by a father to his wife and children is called Puthrâvakâsam.

38. No objections whatever. This law is wanted not only for Nâyars but also for Marumakkathâyam Tiyars of North Malabar. The present generation craves for it so far as I have ascertained.

39. I would prefer the customary form of marriage, making registration evidence of its legal recognition. Even persons who are eager for a reform in this respect shrink at the idea of having to appear before a public servant. Within a fixed date after the marriage the parties should be made to send a written notice to the Registrar, signed by them, by their guardians, and two witnesses, attested if necessary by the Adhigari of the Amsam.

40. Differences are as below.

(1) A man having a wife now contracts another marriage. A wife cannot do so.

(2) The man's age is correct, but the woman's age can be reduced to 12.

(3) In respectable families the consent is always obtained now, irrespective of the age.

(4) No difference.

41. I have nothing to add.

42. Adultery, loss of caste, ill-nature and incurable diseases.

43. If the Nayar wives and children live with the husband in the Tarawâd house they are maintained by the Tarawâd.

(a) I agree.

(b) I agree. I understand that many approve of this as this is a sort of an alternative provision in case of the husband's death.

(c) I have nothing to say against this.

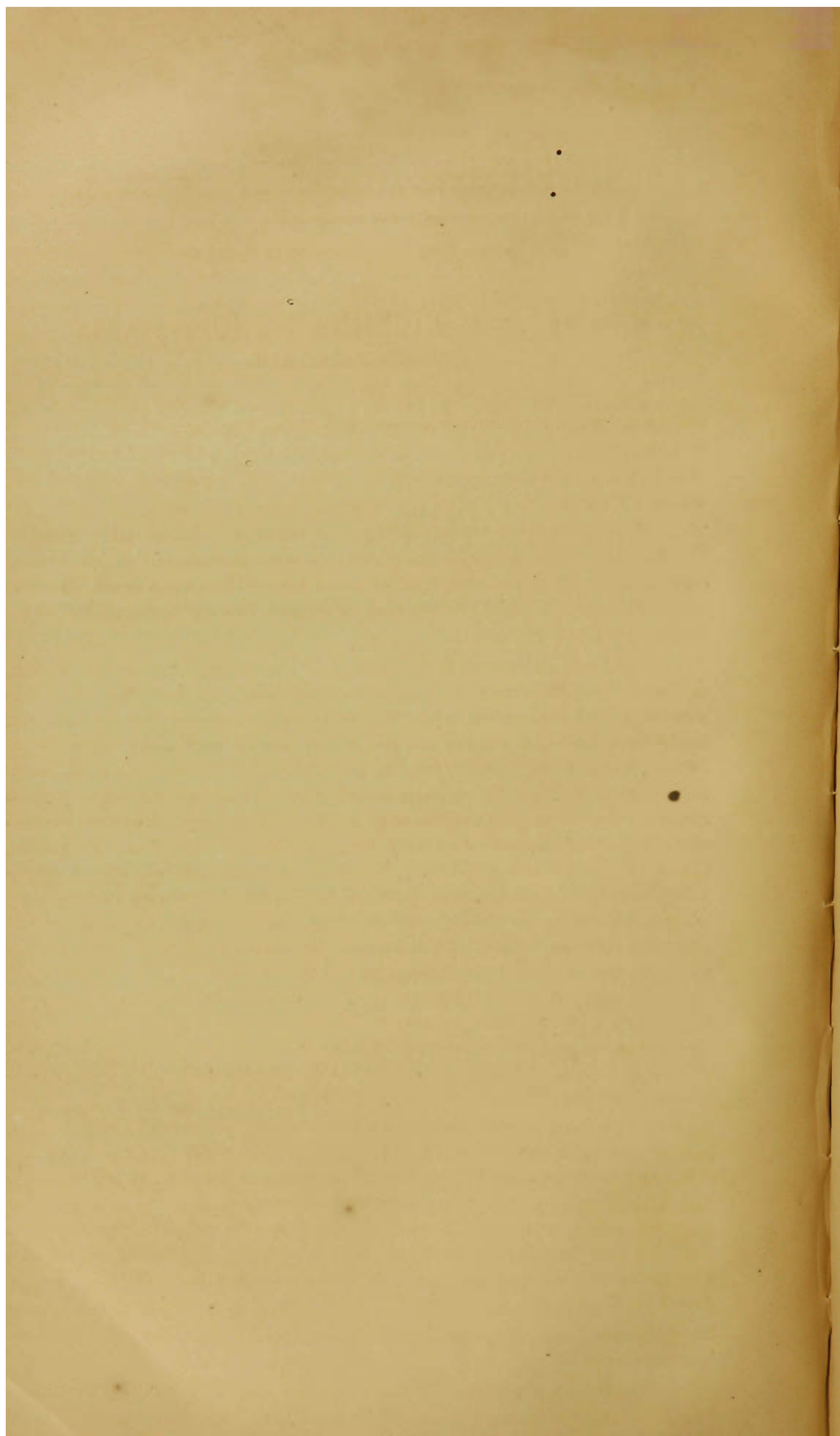
(d) This is reasonable and I agree.

(e) The words "sufficient provision" must be qualified by "consistent with the extent of his property or ascertained means."

(f) Quite so.

45. It is not objectionable though not customary I hear.

A. CHATHU,
Huzur Sheristadar.
Calicut.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. K. P. KRISHNA MENON, AVARGAL,
BARRISTER-AT-LAW.

1 to 5. These five questions refer chiefly to the validity or otherwise of Sambandhams formed between different divisions of the Nayar community. There are roughly speaking 18 divisions of Nayars including the Velukkatharê (വെളുക്കത്തറ നായർ) and Veluthêdan (വെളുത്തടത്ത നായർ). Touch-pollution (തൊട്ടാൽ കുളി) is observed by the other Nayars at the contact of these two sects.

There is no strict rule forbidding inter-marriages between these divisions. The Nambudri Brahman is the law-giver in matters of caste, and in his eyes all these divisions are on the same level, as far as Sambandham is concerned. He does not object to a Chârnnat (ചാർന്നത്) man or woman forming Sambandham with a Sudra (ശൂദ്ര) man or woman.

Sambandham after all is only a form of concubinage. It creates no legal relations between the so-called husband and wife, and it can be broken off with as much ceremony as there was when it was formed. Formerly Sambandham was concubinage pure and simple, and the Nayar women were looked upon as the Dâsis (ദാസി) of the Tamil country or prostitutes, by the Brahmins. A Nayar lady could have more than one man as her so-called husband without any social disgrace; No, it was even thought as an honour to have more than one husband and to enjoy the embraces of as many Nambûdris as she could find. That being the case it was not necessary to enquire into the caste of a man who wished to keep a woman as his concubine, and thus we see inter-Sambandhams between these 18 sects allowed by the custom originally. But this state has to a certain extent altered in these parts (South Malabar). As Nayars advanced they began to look upon this system of pure concubinage as a disgrace to them; the Sambandham gradually began to acquire a permanent nature, and lose its character of pure concubinage. It became to be thought as a disgrace to have more than one man at a time as the husband; Sambandhams began to be formed with more publicity and ceremony. Then it became necessary to enquire into the caste of the parties, who wished to contract Sambandham.

In British Malabar a woman of a higher sect is not now permitted to form Sambandham with a man of a lower one. If she violates this recognised rule she is put to little annoyances by a system of boycotting. She will not be, in such a case, allowed to be present at any public social gathering, &c., and in some other ways she will be put to some social disabilities. But the moment she satisfies her clanspeople by paying some money as fine, this worrying her ceases, and she can keep to the man of her choice even if he be of a lower sect than herself.

Prâyaschitham cannot validate a Sambandham which is bad in the eyes of the customary Law. Prâyaschitham is religious in its character whereas Sambandham is not so.

6 to 10. "Kôrapuzha" is the recognised boundary between North and South Malabar for caste purposes. It must have been made so on political

grounds. It is on historical record that the people of the South and the North were at war against each other; and that there were often feuds between these people. The Kôrapuzha being a river, naturally formed a convenient boundary between the two territories. The Northern people, who were not always victorious in their expeditions against the Southern people, must have thought that it was not safe for their ladies to cross the river and travel southwards in the enemy's country, where they stood the chance of being ravished by any caste man, as they would get no protection from the Nayars of the South, and the Northern people must have thought fit to make a general rule that any Nayar woman crossing the river was to lose her caste.

7 and 8. Nayars of North Malabar form Sambandham with women of South Malabar, but it is not so common that Nayars of South Malabar take women of the North Malabar as their wives. The reason in my opinion is that the women of South Malabar are, as a rule, more accomplished and fit to be better companions than their sisters of the North; and it is only natural that young men of North Malabar should seek their wives in South Malabar.

19. It is the custom in these parts (South Malabar) at least for Sudra Nayar girls to undergo the Tâlikettu ceremony before they attain puberty.

20. Generally speaking there is no formality required for a girl to consort with a man after the Tâlikettu ceremony—at least nothing of any religious character. But lately as Nayars have become a little enlightened, a certain form of social formality is observed. When a man wishes to take a woman as his wife their near relations, and Enangans, or clanspeople are informed, and the ceremony known as Pudamuri, or Kiddakorai Kalyânam takes place. This ceremony varies in different parts. They generally have feast on that day, and betel leaves and nuts are distributed among the guests &c. This gives some publicity to the affair, and thus celebrating the event has become a fashion only very lately, and that only among the rising generation.

21. In South Malabar when a Brahmin forms Sambandham, the same formalities are not observed. The reason for this in my opinion is, that the Nambudri does not consider this connexion as any *bandham* (binding) at all. He looks upon the Nayars even now as he did in former days. Nayars may have changed their opinion now about their women, but the Nambudri has not.

He still looks upon them as prostitutes. He does not even like the idea of being known at large as the Sambadhakkâran of a Nayar woman. He makes it a point to pay his visits to his dear wife only late at night, when others in the house are supposed to be asleep, and he takes care to leave the house in the dark before dawn. He does not like his own children calling him father. What do all these show? It clearly shows that Brahmans regard this Sambandham as pure concubinage, and in forming such a connexion no formality or ceremony is required.

23. There is nothing to prevent a woman from having more than one sambadhakkâran at a time; but now such a state has begun to be looked down upon, hence it has become very rare now.

25. Yes. She can terminate the Sambandham if it pleases her to do so. No formality is necessary to dissolve the connexion.

27 and 28. A man can have Sambandham in more than one house and there is nothing to prevent him from doing so if he chooses it; but still it is not considered the right thing to do so, among the educated and respectable Nairs.

29 and 30. Among the educated class, the woman generally lives with the Sambandhakkâran in his house. If she belongs to any aristocratic family she never quits her tarawâd.

31. In South Malabar there is no recognized custom which says that the man ought to support the woman and her children during Sambandham. What is required of the Sambandhakkâran is simply to find bathing oil, and clothing for the woman and her children; and nothing more. When she stays with her Sambandhakkâran, he will have to maintain her; but when she is in her own tarawâd she looks to her Kâranavan for her support.

32. As I said before Sambandham is beginning to loose the character of pure concubinage as the people are advancing; and now generally a man cleaves to a woman for life.

33. He as a rule feeds them; but there is nothing to compel him to do so.

34. There is no special allowance made to an Anandaravan for working for the common benefit of the tarawâd. If he takes a lease of any tarawâd lands he is regarded only as an ordinary tenant, and he pays to the tarawâd the usual rent.

35. He generally tries to earn something as his own property, and these earnings he spends on those who are dearest to him, and that naturally being his own wife and children.

38. I am strongly in favour of providing a marriage law for Nayers. Sambandham does not constitute a legal marriage. The ceremony of Podamuri does not create any new legal relations between the Sambandhakkaran and his so-called wife. In fact there is no marriage at all in the ordinary sense of the word; hence offences against marriage rights are not punishable. This is a state of affairs which is very injurious to the well-being of the society, and therefore the demands to remedy this I consider are very imperative.

39. I would leave it to the option of the parties. They may form Sambandham according to the usual custom now obtaining and then make it to be recognised by law by registering it; or (if they prefer it) they may solemnise it in the presence of a Registrar &c. according to the form subjoined in the margin of the question paper.

40. The conditions of a valid marriage widely differ from those of Sambandham now in practice.

41. To clause 2.—I would add "*and also she must have attained her puberty.*" There may be cases where a girl may have attained her 14th year but not puberty. During the time of the discussion of the "Age of consent Bill" we have heard enough to enable us to guard against the evils of allowing young married couples to live together before the girl had attained her puberty; hence I think the above words ought to be added at the end of clause 2.

Nothing seems to be provided for dissolving the marriage in the annexed form. I should like to see some provision for that.

I would have some sections framed on the following lines. Difference of temperament between husband and wife ought to form a sufficient ground for dissolving the marriage. If the husband were to say that "I cannot get on with my wife; I want the marriage dissolved" then a decree for dissolution ought to be given by the court, and each party must be at liberty to marry again. The same liberty must be accorded to women; if she were to say that she does not like her

husband, and that she wants the marriage dissolved, it must be allowed, and a decree given accordingly. The court need not look why they do not agree; it will be really difficult to find out the cause of disagreement. It may be owing to cruelty, on the part of the husband, of adultery on the part of either; and it will be only washing dirty linen in public by asking the party who wants a dissolution to prove the cause of disagreement to the satisfaction of a law court. But at the same time to prevent either of them from acting impulsively I would place this restriction on them:—

If it is the husband's wish for a divorce from his wife, he must be made to maintain her till she marries again. He must also provide for his own children if there be any. This burden of having to maintain a woman and her children would I think act as a check on a man, who has a tendency to change his wives often.

If the wife is desirous of dissolving the marriage, she is to get no maintenance from her husband, and the children if there be any ought to be in the custody of their father. If she is prepared to part from her children and also to support herself, let her by all means have the divorce from her husband whom she does not like and very probably detests.

These I think would act as checks on both parties from running to court and asking for a dissolution of marriage on any slight cause of disagreement or quarrel. I for one am opposed to placing many restrictions for the dissolution of the marriage. Even now with such ample freedom it is only seldom that we meet with instances of a Sabandhakâran having deserted his wife, or a wife her husband. Nayars need not I think sacrifice wholly the only advantage they possess for their present system. With the above restrictions for dissolving the marriage a sufficient guarantee for constancy is, I think, secured. On the lines shewn above I should like to see some sections framed and thus provide for divorce.

42. According to social usage adultery, desertion, or neglect on the part of either of the parties is thought a reasonable ground for dissolution of a Sambandham.

44. I approve of all the clauses except some parts of (e) which puts some restriction on one's testamentary power. Ownership is never complete without that power. A son may grow undutiful and disobedient to his father, if he knows that his father has no power to take away his right of maintenance.

Marumakkathâyam is not strictly a rule of succession by nephew generally; for instance if an elder brother be surviving he succeeds to the self-acquired property of the deceased in preference to the nephew, although he performs no funeral rites, and indeed in no case the elder member performs the funeral rites of the younger and yet succeeds to his property. *Succession therefore does not depend on the performance of funeral rites*; and consequently the argument that the nephew saves the soul of the deceased has no force whatever. In fact among other Hindus in Southern India the fitness or otherwise to perform the funeral rites, is not the test to regulate the rule of succession. There is thus no objection in my opinion to the altering of the line of succession from the nephew to the son.

45. It is customary.

K. P. KRISHNA MENON,
Barrister-at-Law.

MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. K. P. RAMAN MENON, AVARGAL, B.A. B.L.
HIGH COURT VAKEEL,

1. Yes, generally; but castes which in some places are regarded as higher are in other places regarded as lower.

2. No. A woman must always have her Sambandhakkâran from among her own caste people or from among higher castes. She is never allowed to mate with one lower in caste to herself.

3. Generally a lower casteman is forbidden to have as wife a higher caste-woman, but if both parties are within the pale of the Nayar caste there is no violation of the religious principle, since according to the Kêrala Mâlâtmyam all Nayar castes beginning with Kiriyaathil and ending with Velakathalavan (barber) are Sudras, and therefore one section of the people. But in practice the social stigma is so great that women of higher castes do not cohabit with men of lower castes; the stigma being greater where the difference between the castes is very wide. I have known instances of Sudra males forming Sambandham with Chârna females in Cochin, but not vice versâ. There is no caste restriction for inter-Sambandhams in some parts of Cochin viz., Eringalekuta.

4. In such cases the couple are not invited to social gatherings, and the caste heads generally extort a penalty from them by boycotting them from society.

5. I know of no distinct Prâyaschitham; but I know of such Sambandhams which have gone on at least so as not to attach any stain to the issue of such marriage. Also Prâyaschitham is a word of religious significance and it has no meaning as applied to expiating any social stigma which might arise from a Sambandham—a relationship which has nothing religious in it.

6. The Kôra river is the boundary.

7. Nayars of North Malabar form Sambandhams with the women of South Malabar subject to the caste restrictions as stated above in answers to questions 1 and 2. I have not known of any instance of Nayars of South Malabar marrying from North Malabar.

8. I do not see any reason why they cannot, subject to caste restrictions, but I do not know of any instance.

9. They do not cross over, and I am told such crossing over entails loss of status for them.

10. For the reason of such prohibitions we must look to the old territorial divisions. Kôrapuzha formed the boundary between North and South Malabar. The Raja of Kadathanâd, the nearest amsam to the North of Kôrapuzha, belongs to the family of Porlatiri, and it was by ousting this family from Calicut that the

Zamorin came to be Raja there. Hence the animosity between the two Princes was naturally very great, and since women are particularly liable to be harmed if they cross over to an enemy's territory, this prohibition might have originated.

11. A full description of Tâlikettu Kalyânam is given in Mr. Logan's Manual of the Malabar District, and I need not detail the story of an unmeaning ceremony. It is not a marriage in any sense of the word, the primary object of marriage being absent from this ceremony. The so-called bridegroom, or Manavâlan, does not derive any right for cohabitation; but there is no objection to his forming Sambandham like others, his right then arising from Sambandham and not from Tâlikettu ceremony. I know of one instance of such Sambandham. Pollution is not now observed although it is said that was the case in former days among all except Chârna Nayars.

19. Every Marumakkathâyam girl must, as matters now stand, undergo the ceremony of Tâlikettu kalyânam. Custom is the only guide.

20. A further ceremony known as Sambandham is performed. This ceremony is different in different places. Roughly speaking there are two forms, one in North and one in South Malabar. In South Malabar the Sambandham is negotiated and settled before hand, and on the day fixed the would-be Sambandhakâran with some companions proceeds to the house of the woman where a general feast takes place, and then betel and areca are distributed to all, particularly to the girls' uncle and mother. The would-be Sambandhakâran is then taken to the girl's room where the couple are left by the girl's sisters. At daybreak the now Sambandhakâran and his friends leave the house. On a near occasion a second visit with some formalities is paid and this completes the Sambandham, or the so-called marriage. This ceremonial also it may be remarked is wholly meaningless, and amounts in reality only to a casual connection between a man and a woman terminable at the pleasure of either party, without any ceremonial, or notice, whatever. This is no marriage proper as understood by the Hindus. The Nayars are Hindus in religion and a Hindu marriage creates certain relationships recognized at law, to wit the lordship of the man over the woman, makes her participator in all religious ceremonies auspicious or inauspicious, changes her gotra and creates pollution. In fact she is converted into a member of her husband's family. None of these incidents exist in a Sambandham and consequently it cannot be styled a marriage from a religious point of view. If it is regarded from a legal point of view it is still worse, as the Sambandham does not create any rights in property, or otherwise, as between them.

21. Such formalities are not observed when a Nambudri, or a Patter, forms such Sambandham. Feasting occasionally takes place and that is all.

22. The formalities as above described are much the same in both North and South Malabar, except that in North Malabar a present of some pieces of cloth by the Sambandhakâran to the woman is an important feature of the ceremonial, whereas this is absent in South Malabar.

23. There is no law to the contrary, but the practice of Polyandry is absent now. Even originally the practice was not known to have existed in North Malabar, but it obtained in some parts of South Malabar until a very recent date.

24. Polyandry is, according to Kêrala Mahâtmyam, prohibited in North Malabar, but is not so in South Malabar.

25. A woman is at perfect liberty to terminate any relationship of Sambandham in which she might have been living.

26. I do not know of any forms in terminating a Sambandham.

27 & 28. Plurality of wives is prohibited by custom as much as plurality of husbands. There is no authority, but the practice is not generally in vogue. It prevails to some extent in North Malabar, where it may be accounted for by the fact that women in North Malabar are less refined, and less educated than their sisters in South Malabar, and consequently being less independent, bear up with greater and grosser insults.

29, 30 & 31. In North Malabar a decision has been obtained recently by which a tarawâd is declared liable to maintain the consorts of all the male members therein. In North Malabar the woman generally lives with her Sambandhakâran in such Sambandhakâran's tarawâd. In South Malabar she lives occasionally at both places but more generally at her own tarawâd. The contrary is gradually gaining ground. Here while she and children live in the Sambandhakâran's tarawâd that tarawâd feeds them; and while she lives in her own family, by that tarawâd; but in all cases her clothing and other incidental expenses, except food, are always defrayed by the Sambandhakâran personally.

32. There is nothing to prevent a man or a woman from changing their consorts, but the practice of one sticking to the other is fast gaining ground.

33. The answer to this question has been incorporated in answers to questions 29, 30 and 31, to which refer.

34. Allowance is made to Anandaravans by the Tarawâd though not legally bound. Tarawâds do sometimes let land on rent to Anandaravans, generally on a lower rate than when to strangers. This practice is very prevalent in Palghat. After paying the stipulated rent the Anandaravan is at liberty to take the surplus.

35. As far as I know they generally work for their own advancement, and seldom for the common benefit of the Tarawâd.

36. Their handing over their earnings to the Kâranavan is very rare, almost non-existent. They give such earnings generally to their wives and children, or to their own sisters, or nieces, and almost never to the Tarawâd.

37. There is nothing known as പുത്രാവകാശം Puthrâvakâsam, either in North or South Malabar *enforcible at law*. The courts do not recognize it as a *right*. But the name is applied to gifts by father to children. The practice of giving property to one's own children is much the same in North and in South Malabar, and I know of no difference in what is styled പുത്രാവകാശം Puthrâvakâsam.

38. I have not the least objection to a permissive law of marriage for the Nayers. On the other hand a marriage law is absolutely necessary, as the highest court of the country has already declared that cohabitation under the Aliasantâna law, among whom Sambandham is celebrated with greater solemnity than among the Nayers, does not amount to a marriage. I would also suggest that a law giving a right to enforce partition should also be passed, since that would then obviate any evil that might arise from the administration of two different systems of law to one and the same class of people.

39. I would prefer legalization of any forms that may now exist, and make registration simply evidence of the marriage.

40. The chief differences, which I have been able to make out, from the Sambandham as now practiced and the section quoted under question 40 are:—

(1) Though persons sometimes form Sambandhams with others who are then living in a state of Sambandham, this is regarded as rather disgraceful and may be regarded as prohibiting such Sambandhams. Even when such Sambandhams take place the fiction is that the previous Sambandham relationship in which such person had been living has ceased, or put a stop to, by a mere act of the will. Therefore the proviso prohibiting bigamy may be justified.

(2) The question of caste is ignored by the section contemplated, *e.g.* A man of a lower caste, a Tiyan, marrying a Nayar girl is justifiable under the Act. This is against the present practice.

(3) There is no age limit in forming Sambandhams according to the practice now in vogue. The average marriage age as at present may be regarded in case of males at 20, and in case of females at 12.

(4) At present, even after attaining majority, males and females are bound to obtain the consent of the Kârnavan before forming Sambandham connections.

(5) In practice families which can trace descent from a common female ancestor are not allowed to intermarry.

41. I entirely approve of the proposed conditions and have nothing to suggest.

42. Adultery is the commonest ground for divorce. Extreme disagreement of temper also facilitates termination of Sambandhams. Practically where one party makes himself or herself disagreeable to the other by reason of adultery, or the like, the Sambandham gradually comes to an end.

43. See answer to questions 29 to 31.

44. I shall consider each clause separately.

(a) I approve of this clause in general, but want to suggest that the clause should go only to the length of declaring the right to guardianship in the father, and leave any reasons which might divest such right, to be determined by a court of justice, and abstain from enumerating any reason at all that would deprive him of such right. I would therefore suggest that the clause be framed in such a way as to declare the right of guardianship, while it should not at the same time oust the jurisdiction of courts in any case whatsoever.

(b) This proviso does not create a new right in so far as the right of the wife and children in their own tarawâd is concerned. Since the right of any member of a tarawâd can be lost by renunciation only, the mere fact of their undergoing a ceremony of marriage according to the provisions of a new Act, cannot divest their right and no court of justice would be justified in declaring the other way. The clause, so far as that right is concerned, is redundant, and is therefore unnecessary. As to their claim to maintenance I would suggest that the claim should not be made an actionable claim in the sense that all arrears could be claimed. For example suppose a wife and children had been living in her own Tarawâd for a long time, and then all of a sudden sues the husband for the maintenance in arrears, it would be hard to compel such payment. I would suggest that the husband be made liable to pay only such amount as is clearly shown to have been actually expended by the wife. I would suggest that her claim should be made analogous to the claim of a coparcener's widow, for maintenance, against

the surviving members of the joint family. Again a husband ought not to be made liable to maintain a wife, who has abandoned him, or has refused to live with him although he is unable or unwilling to obtain a divorce. There are such objections to clause *b* which should be made sufficiently clear.

(*c*) I object to the guardianship failing the mother, reverting to the *Tarawâd*. When any female of any *Tarawâd* takes advantage of the new Act and obtains the property of her husband, that property is her and her children's own self-acquisition, and the *Tarawâd* which represents the joint interest as opposed to individual rights, is not the fittest person to undertake the guardianship of minors who are left without either parent living. I would therefore suggest that the clause should say only this much—the guardianship failing the father shall vest in the mother, and in case she also fails as the courts shall declare in each case, as occasion arises.

(*d*) I approve of this provision. This provision simply legalizes and declares a custom now prevailing *i. e.* the practice of fathers endowing their children with their own self-acquisitions. This is the practice even when the relation between the sexes is only casual as at present; and when by the Act such relationship is made permanent the reason for this rule is more apparent. To people who regard this as an innovation and as declaring the right of the son to succeed instead of the nephew, I have to make the following reply. Firstly is it a fact that a nephew inherits the self-acquisitions of a deceased member? No. There are distinct rulings of the Highest Court of the country that it is not the nephew who takes the property as heir, but the *Tarawâd*, the nondescript conglomeration of irreconcilables, who have nothing of blood relationship in common between them, but form only one of those monuments of barbaric usage surviving through the instrumentality of British Courts of Justice, even into the full timed and ripe civilization of the latter half of the nineteenth century. Next let me examine the position of the nephew, and the reason of the *Marumakkathâyam* law which this provision is said to have violated. In prehistoric barbaric usage, when neither the relationship between the sexes, nor ownership in property had become exclusive, all women, like the common ground on which the camp was fixed, were the property of the clan. No one claimed particular ownership neither to a woman nor to a pasture ground. Among other nations the first dawning of a right of exclusive dominion in property was coincident with a similar recognition of the principle of such a rights with respect to the women also. But among the Nayers two influences have warped this natural developement. Firstly, the influence of the Nambudiris, who now appear on the scene, with their peculiar customs of allowing only the eldest male to contract legal marriage, while the others were at liberty to consort with women of other classes; and secondly the fact of the Nayers being a military people, whereby marriage and consequent domestic ties were looked upon as injurious to the stamina of the fighting races. These two causes conspired to keep the Nayar in the prehistoric type of promiscuous sexual intercourse, although he like other races advanced in all other respects. Property rights had as I said already generated, and in the absence of the recognition of the principle of *pater familias*, what then can be the only guide to ownership in such property. A mother always knows a person to be her child although its father cannot be ascertained, and hence as an inevitable result kinship through females, and the joint family system recognizing the woman as the unit, arose. The reason for the law has gone. Neither are the Nayers any longer soldiers, nor do

they in the present day fail to recognize their father. I would therefore ask why the law prevails when the reason has vanished. The son naturally takes his place as the fittest heir. All civilized nations have recognized him. He is nowhere among the line of heirs among the Nayers—a sure sign that the idea of sonship had never before dawned in their heads—and it is time when such ideas have taken firm root, that he should be given precedence as he has been given, among all civilized nations of the globe.

The Marumakkathâyam or succession by nephew, line of descent can be recognized and upheld only on two different bases *i. e.* the civil and religious. I shall show that neither reason can hold good.

On a civil basis the law still holds good on the rule of enforcing custom. But it should be remembered that among other attributes a custom, to be recognized by law, should be not unreasonable. Now the children of a rich man go abegging, as it was in the case of Moyen Ramen in North Malabar, while persons who are very distantly related to him are lolling in wealth. This is very unreasonable, and it is equally absurd that a man should be compelled to maintain persons for whose existence he is in no way responsible. In ordinary families under other systems of law a man can prevent the enlargement of his family by abstaining from marrying, but in a Marumakkathâyam family it is not in his power to prevent such increase, and yet he is called upon to support the members thereof. From the above it will appear that the Marumakkathâyam law is highly unreasonable and hence unfit to be enforced, and the sooner it is changed the better it will be.

Next as to the religious basis.—The opponents of this provision say that since the nephew performs the funeral rites he is entitled to inherit, and in support of this cite an obsolete text from some of the old Smritikars. If these texts are of any authority they are equally binding on all Sudras, including Sudras of provinces other than Malabar, and there are other texts in the same Smriti, which enjoin that a Brahmin when requested to let a wife for purposes of begetting a son should consent to it. The Sudras of other provinces do not observe this text as an authority, and there is no reason why the Nayar should be alone compelled to do so. Nor do the Brahmins observe the text about letting their wives. Also, as I said above, it is not the nephew who inherits but the Tarawâd, and as its representative some cousin of the deceased man. It is therefore clear that the religious principle is entirely absent from the rule of inheritance in the law of Marumakkathâyam. An elder member never under the Marumakkathâyam usage performs the funeral ceremonies of the younger, but gets his property notwithstanding. Among the other Hindus also in Southern India, fitness to perform funeral rites is not the qualification to inherit, since the Mitakshara, the law administered in Southern India, ignores the religious principle altogether. While all other Hindus ignore this principle it is unreasonable that a Nayar alone should be compelled to observe it. Even if religious merit is regarded as a reason for inheriting property the son now performs it, if the father is of the same caste, and that he is the fittest person for it no Hindu can deny, and consequently it is only just and reasonable that he should be allowed to inherit the property also. There is therefore no civil or religious objection to the projected provision of changing the succession to self-acquisitions from the Tarawâd to the son.

(e) I do not approve of the provision as to maintenance since it takes away a part from absolute ownership in property. A wife and children may have

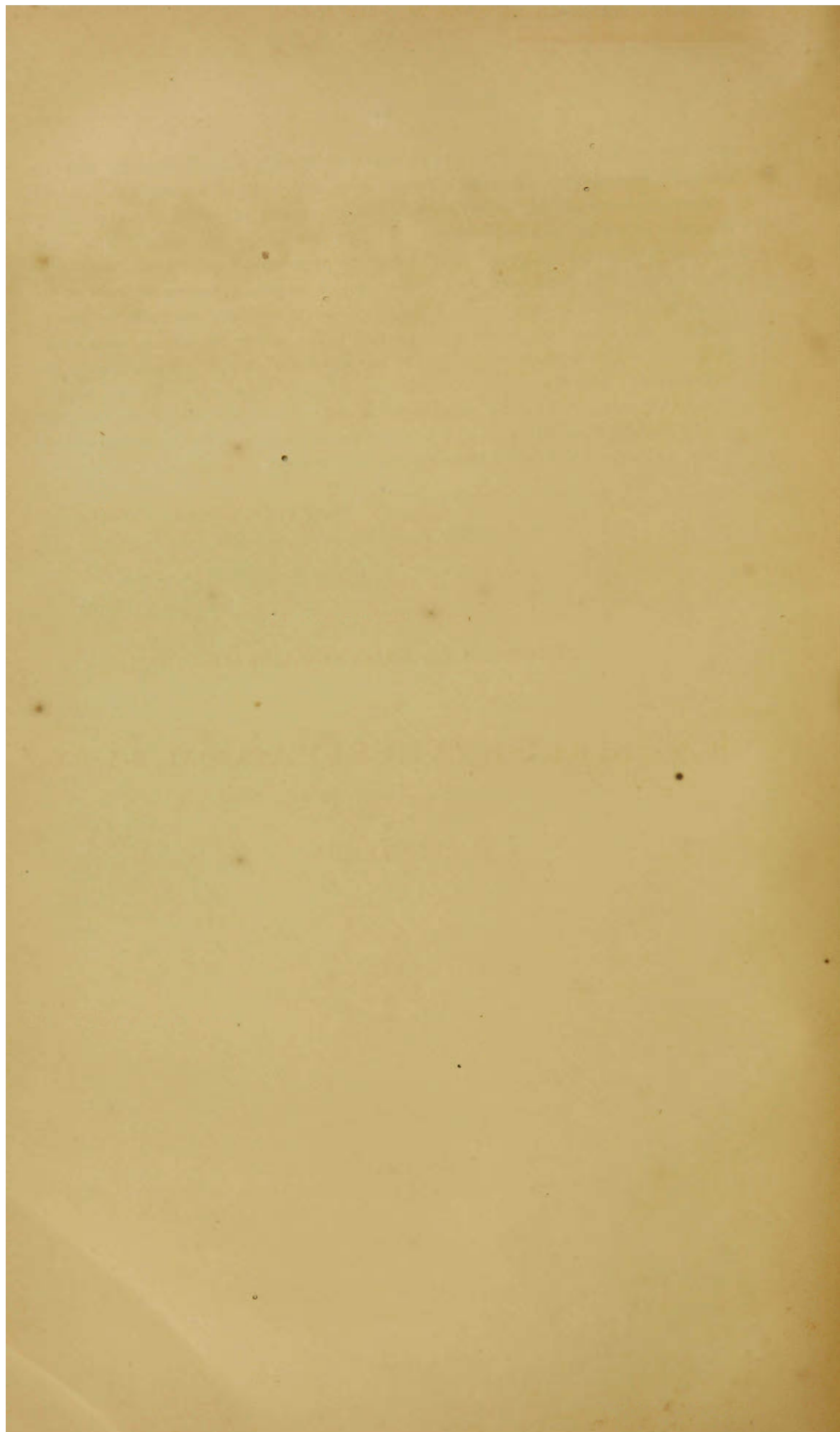
their maintenance in their Tarawâd in case the husband disinherits them, and the bill which provides for a form of marriage need not go out of its own way and clog a right which the people already have, *to wit*, free power of willing away property. The chief object of the new movement of which this bill is an outcome is to provide for a form of marriage which shall be permanent, and to avoid hardships which occasionally arise from the carelessness of husbands during their lives to secure property for their wives and children; and it is wholly unnecessary, therein, to fetter individual rights even to this extent. The power of willing away one's property if it now exists is not subject to any adverse rights of maintenance in the Anandaravans, and I for one, am against creating any new and unknown restrictions. According to the new Act the wives and children are foisted into the place of Tarawâd and Anandaravans and I do not see any reason why the former should be given any right which the latter do not now possess.

(f) I have nothing to say as to this.

45. Yes, I know instances.

(Signed.) K. P. RAMAN MENON, B.A., B.L.,

High Court Vakeel.



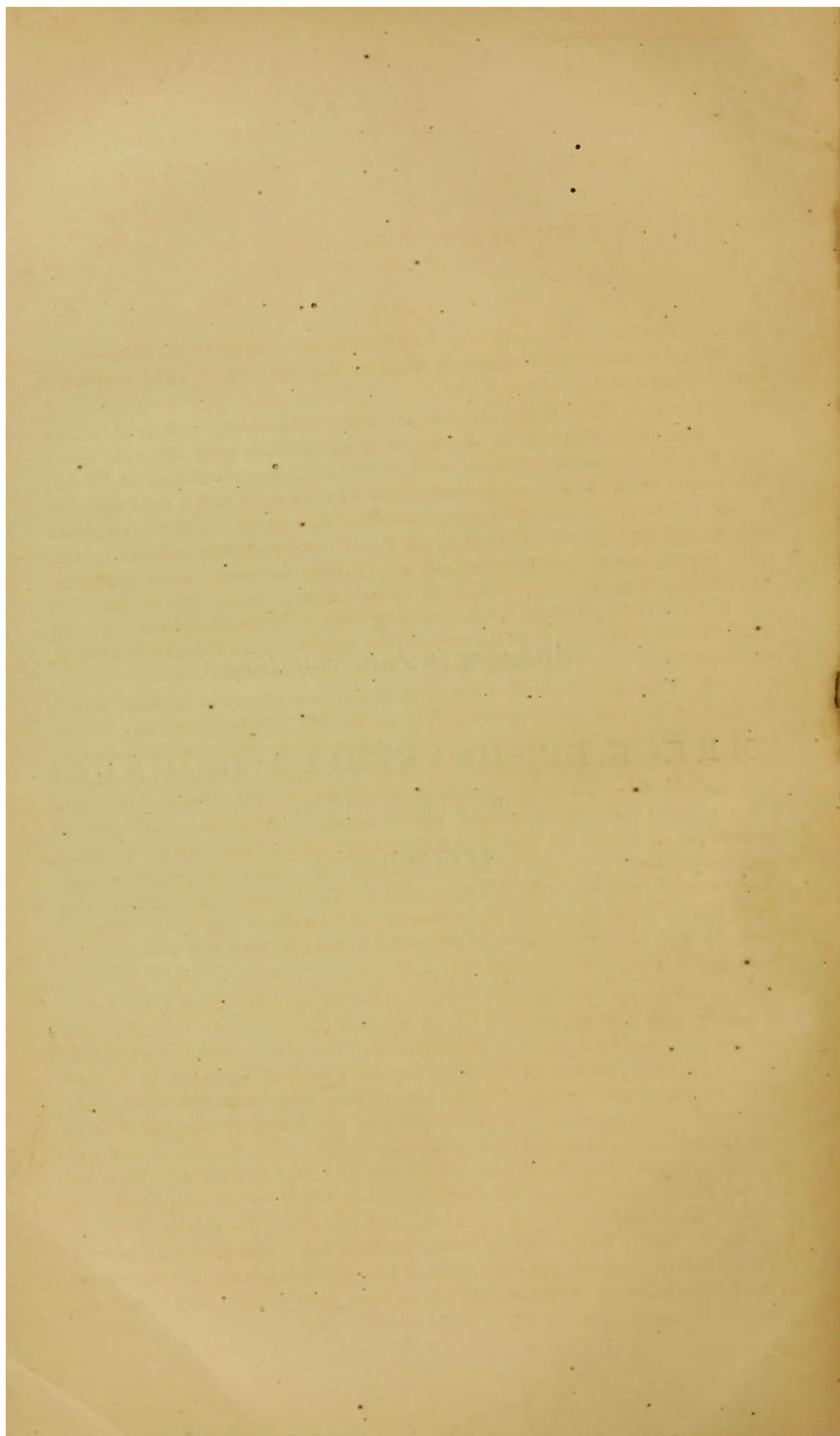
Answers to Interrogatories

BY

M.R.Ry. K. KRISHNA KURUP AVARGAL, B.A. B.L.,

HIGH COURT VAKEEL,

TELLICHERRY.



AYNCHERRY,
10th May, 1891.

To

H. M. WINTERBOTHAM Esq., C.S.,
Collector of Malabar,
On Special duty.

Sir,

With reference to your two communications with respect to the proposals of the Hon. C. Sankaran Nair regarding Malabar Marriages and kindred subjects, I have the honor to state as follows:—

2. As to the first question contained in the former communication my answer is that I am emphatically of opinion that Malayalis should be given the right to dispose of their property by will to the same extent that they could alienate it by gift *inter vivos*. It may be a question whether they do not possess such a right now, but I shall, for the purposes of this letter, assume that they do not. The bill introduced into the Madras Legislative Council by the Hon. C. Sankaran Nair proposes to confer the power only on the husband and wife married according to its provisions. This, I think, is unfair. The absence of such a power is keenly felt by Malayalis now and will be equally felt hereafter, whether they are husbands and wives married under the act, or not. It is in the power of the legislature, and I think it is its duty, to confer the power on all, seeing that it is due to them in justice to do so.

3. There may be persons who have conscientious objections to enter into a marriage of the description contemplated by the bill. Some others may not be satisfied with one or more of its provisions, and they may not contract marriages under the act. Others, again, may be old maids and widows, who have little hope of securing husbands. There are here, as elsewhere, old men and old women, who have given up all idea of entering into any sort of marriage connection. Some of these have properties of their own and they wish to enjoy them till their death. They also wish to leave those properties from that time to some person or persons at their pleasure and in some instances in definite shares. The objects of such bounty, very often, are not the legal heirs of the possessors, and the shares they would determine upon, will not, in many instances, be what the law will allot even in the few instances in which it would proceed to a division.

4. A person may wish that the bulk of his property should, after his death, go to a charity, or to support some other benevolent institution. He is loath to give away now for, thereby, he may be exposed to much risk and no little inconvenience. The man, in consequence, puts off making the alienation to a day when he is sure he will not any longer want them for his use. But in some cases such time comes unexpectedly and carries away the man unawares and before he has had time to make the necessary arrangements, or, in others, it comes with indications sufficient to remind every one else that the end is near, but powerless to make the victim realize the fact; because he loves life dearly and would not therefore be persuaded to believe in time that it is drawing to a close. The man dies. The charity is left to take care of itself. The founders or managers of the benevolent institution bemoan the loss; and the property goes to the heir-at-law, who was perhaps a bitter enemy of the former possessor. Whereas, if he could have made a will, there would not have been matter for complaint from any quarter.

5. I think that I need not multiply instances of blighted hopes, or dilate on the desirability of conferring the testamentary power on any people who are above the level of mere savages, and who may have something of their own to bequeath. The want of such a power had been felt by all persons who had it not once; it is felt by all who have it not now, and it will be felt by all who will not have it hereafter. If, as everybody will admit, it is the duty of Government to prevent hardship of its subjects, where it is practicable to do so without letting in greater evil, I think our benevolent Government is bound to confer such a power on all Marumakktayam Hindus, whether they choose to marry under the Act or not.

6. Substantial benefits accrue to the parties from such a marriage as is contemplated by the Bill, and heavy responsibilities will have also to be incurred. These rights and responsibilities are the direct consequences of the marriage of the form proposed. A Sambandham is also a recognised form of union of the sexes in Malabar, but no rights arise from the connection, and no duties are incurred thereby. Ostensibly the Bill is meant only to provide a permissive Marriage Law for Marumakkathayam Hindus. It does not purport to do away with Sambandhams. The apparent intention of the framer of the Bill is to leave it entirely to the will of each couple to decide whether they will be united under one system or the other. If so, both systems ought to be left to them to choose between, and no advantage or disability, other than what directly flows from either, should be attached to either of them. Each system must be allowed to stand or fall on its own merits. The husband or wife, marrying under the Act, should not have the additional advantage of possessing the power of testamentary disposition of property. Such a power is not the necessary consequence of a marriage under the Act, and it is not inconsistent with the Sambandham as it now prevails. No valid reason can therefore be assigned to the withholding of a power to make wills from persons who are not legally married. In the struggle for existence both systems will not have fair play if one of them is to be hemmed in by extraneous disability.

7. What I would therefore propose is that all Marumakkatayam Hindus should be given the right to dispose of their property by Will to the same extent that they could alienate it by a gift *inter vivos*.

8. As to the latter question my answer is that, in principle, I fully approve of the suggestion to provide a permissive Law of Marriage for Malabar. But I cannot agree to the present Bill in its entirety. My objections in the main are set out here and there in this letter, and I think they embrace all the principal ones I have to make.

9. I shall now proceed to answer the questions put to me as per the second communication. A few of them I have not touched upon, because I know that I cannot do justice to them.

Question 1.—Yes. A Nayar male of a higher division can have Sambandham with a woman of any of the lower divisions,—Washermen, Weavers and such like excepted.

Question 2.—No. The woman loses the right to associate with all respectable Nayar divisions if she contracts a Sambandham with a man of a lower division. I have been informed that such Sambandham is not, however, uncommon in some parts of Native Cochin.

Question 3.—I know no instance of the kind referred to in the question in North Malabar. •

Question 6.—The *Korapuzha* is commonly spoken of as the boundary.

Question 7.—The Nayar males of North Malabar do, occasionally, form Sambandham with Nayar women of the South. They, however, do not allow their females to form Sambandham with any Nayar of South, however high his caste and social standing may be. I know but one instance of a breach of this rule.

Question 8. There is no reason why a Nayar of South Malabar, as such, may not have Sambandham with a woman of the North. The existence of a custom prohibiting such a union cannot be denied; but as one of the essential conditions of a valid custom—namely that it ought to be reasonable—is wanting in this case, I would return an affirmative answer to the question.

Questions 9 and 10.—The general rule is that no Nayar woman of the North may cross the *Korapuzha*, and not that she may not cross to the South of the *Korapuzha*. That this is so is seen from the following, among other circumstances. There has been an instance in the family of * * * * of Quilandy of a lady of that house marrying a Kurup of * * * * in Calicut Taluk. I am informed that she came and went, from, and to her husband's house; but never crossed the objectionable river in passing, having on every occasion taken care to pass and repass higher up the stream, where it is no longer known by that name. The people of Quilandy seem satisfied; for, she—now a widow—like others, is permitted to take part in all caste observances and ceremonies in which the females of her house used to join in her pre-marriage days. None of the family, or its relations, have suffered in consequence of her going to and living in a place, which everybody knows is situated to the South of the offending stream. The origin of this prohibition is now well-nigh obscure. The absurdity of it had suggested itself to me more than once; and from the enquiries which I have made in consequence, I have been furnished with the following explanation which has an appearance of probability about it. In ancient times,—my informants cannot say at what time—when South Malabar was ruled over by the Zamorin, and the North by the Kolathiri Rajah of Chirakkal, there had been a grand ceremony in the palace of the former and, as usual, females from many parts of the country had been invited to go there to partake of the feast and enjoy the *thamâsa*. It seems that at that period the Zamorin had not a special class of dependants in his service, as some at least of the Nambudiri landlords and Nayar *Nâduvâzhis* (chieftains) had, and have even now. Some say that there was such a class, but that the members thereof were small in number and altogether inadequate to discharge the duties they had to perform. It seems that the Zamorin hit upon an effective though treacherous means to swell the number of his menials, and ordered the palace gates to be closed against the departure of his female guests. Such of the imprisoned, as did not belong to the dependent class,—and they were far the greater portion,—were out-casted by their Kinsmen. The Zamorin took them into service and married them into his dependent class. The original members and this subsequent addition in course of time became a homogeneous division, and are known in Malabar tribal history as *Akath chârnnâ Nâyanmâr* or more properly as *Akath chêrnna Nayanmar*, the literal meaning of which expression is the *Nayars attaching to the inside*. This class is now known as *Parisha-menons* or *Menons* simply. •

The *Kolathiri* Rajah of Chirakkal was informed, in due course, of the wholesale wrongful confinement that took place at Calicut. He was powerless—or at least was not then in a position—to chastise the Zamorin; and the only means he could hit upon to remedy the evil, or, at least, prevent its recurrence, was to enjoin that no female subject of his should thence-forward *enter the Zamorin's territory*. His words on the occasion are reported to have been somewhat to the following effect. "Into the territory of the Zamorin, who is guilty of such gross misconduct as this, let our women (subjects) not enter."

A later generation, who perhaps did not know, or were not informed of the reason for the prohibition, or, who, by lapse of time, and because no fresh instance of the kind took place in the South misparaphrased the Rajah's words into a prohibition to cross the Korapuzha—the Southern boundary of Kolathnad. Thus, by a not unnatural confusion of ideas, a prohibition to enter a rival King's dominions came to be construed to mean a prohibition not to cross the boundary line, which separates the two Kingdoms; and as seen from the instance of the * * * lady of the present generation, it would seem, would not object to Northern women going to and living in the South provided only that they would take care not to cross the Korapuzha. The tenacity with which the North clung to the prohibition, even after the shadow of a reason for its imposition had disappeared is, by some, attributed to the fear they entertained that the morals of their women would suffer by contact with their Southern sisters, who were then, and are now, considered to be deficient in many of the womanly virtues. These considerations, however, need not now prevent a Nayar woman from crossing the Korapuzha. The sovereign power of the Rajahs both of Chirakkal and Calicut have now become a matter of ancient history; and they may be sure that no such arbitrary and high-handed procedure will ever be had recourse to by the British Government, which is now master alike of the North and the South. The supposed deficiency in virtue in the woman of the South—at least to an extent greater than what may obtain elsewhere—is a myth and has absolutely no foundation in fact. The sooner the North leaves off this habit of making wholesale condemnations the better it would be for them. My answer to these questions is that it is not objectionable now for a Nayar woman of North Malabar to cross the Korapuzha, because the prohibition, that they should not do so, has no legs to stand upon but an unmeaning custom.

Question 11.—I leave it to persons of more experience than myself to give a description of a Tali-Kettu Kalyanam. I shall only give my opinion as to what it *now* is. The significance of many of the acts performed at this ceremony unmistakably shows that in ancient times, when it was instituted, it was meant to be the real marriage ceremonial itself. Among other Hindus, marriage, as a rule, is performed before the girl attains puberty, and the Tali-kettu kalyanam ceremony is also gone through invariably before that epoch. Here all similarity ends; and whether on account of the influence of Malabar Brahmanical usage which, most selfishly, prohibited the junior members of Illams to contract marriage in their own caste, and allowed them to form alliances with Nayar woman—and thereby brought about, or greatly contributed to the endurance of, that most unnatural system of the Marumakkatayam Law of inheritance,—or whether it was found impracticable to get suitable husbands in all cases, before the girl attained puberty, or for any other cause not necessary to be investigated now, a division of labour seems to have taken place. One person was proposed to tie the Tali, and another to perform the other offices

of a husband. The duty of tying the Tali on a woman, and its corresponding right to cohabit with her, parted company, and unlike what obtains among other Hindus, became vested in two persons, never again to meet on common ground unless, perhaps, the present Bill becomes Law.

So completely is the original meaning of the rite lost sight of in these days that one man is allowed to perform the same ceremony on several girls—often sisters and first cousins—on one and the same occasion and, what is more strange, even the girls' own mothers perform the ceremony on their daughters. But the observance, though devoid of sense, continues even without a single exception—for that maxim is, to a very great extent, false, which says, the reason for a thing ceasing to exist the thing will itself disappear. The expense it entails, the almost outrageous drain of family resources it causes, and the hardship to many an otherwise well-to-do Tarawad, it produces, require no comment here. My answer to the question is that the Tâli-kettu kalyânam, whatever may have been its significance in ancient times, is at present only a shameful, expensive and unmeaning ceremony.

Question 12.—To the question as put I can only return the answer that a person other than the girl herself must do it.

“Who should tie the Tali?”

Among Menons Netungadis tie it, and among Sudra and Vattékatt Nayars their own caste

people. With some Nâduvâzhis and the Rajahs, a *Kshathria* man performs the service, and among the Kurups and Nambiars of the North a Nambudiri does it. I have been informed that a mother may, and does, perform the ceremony but I know of no instance of the kind myself.

So far as I am aware, the person who ties the Tali is not invariably known by a name. In some places of South Malabar he is called *manavalan*, which means bridegroom; but usually and generally he is known by his descriptive title only—such as the tali-tying *Netungadi*, *Enangan*, or *Nambudiri*, or otherwise as the case may be.

Question 13. Yes. It is.

Question 14. No. But it would seem that in some rural parts of the South, he is recognised to have a preferential right to form Sambandham with the girl, but this is so, I understand, only in theory, and I know of no instance in which the right, if claimed, was allowed and a Sambandham formed in consequence.

For more reasons than one, the persons who is now selected to tie the tali on a girl, should not be permitted to have the right to cohabit with her. None of the parties contemplate the accrual of such a right. The men are chosen simply and solely to tie a knot, and that done, they are *functus officio* and ought to remain as such. But if it be possible for us to revert to the olden state when Tali-kettu was symbolical of, and formed the most essential part of, marriage itself; if the man who ties the tali be chosen with that end in view, and what is as important as the foregoing, if the ceremony may be deferred to a time when suitable offers of marriage present themselves, I feel confident that every right-thinking man will only be too glad to accord to the Tali-tiers their marital rights, which would then doubly be their due.

Question 15. There is no objection. The man who ties the tali stands to the woman round whose neck it is tied precisely in the same position as any other person competent to marry her would be. There is no prohibition whatever such as is referred to in the question.

Question 16. I have not, however, known an instance of such a Sambandham.

Question 17. The usual pollution—which varies from ten to fifteen days—is nowhere observed. In the North, so far as I know, no pollution is observed at all. I am not aware what the custom is among the different divisions of Nayers in the South. It seems that, with respect to some at least, the practice is to have a full-plunge tank, or river, bath, as conveniently as may be, after the news is first broken to the woman—thus casting off a real or supposed *impurity*, and not terminating a *period of pollution* properly understood.

Question 18.—I have heard that it is, but know of no instance in which it was had recourse to.

Question 19.—According to general Hindu Law a girl loses caste if she be not married before puberty. Malayalis, therefore, think that Tali-kettu kalyânam (which as stated before was most probably the real marriage ceremony of ancient times) should also be performed before that period, and as a matter of fact all kalyanams are so performed. The penalty they ascribe to a breach of this custom is, likewise, loss of caste. But as Tali-kettu kalyânam has now lost its real significance and is at present only an expensive farce, I do not think that there is anything but blind custom which requires it to be performed before the girl is mature.

Question 20.—After Tali-kettu kalyanam, when a girl desires to consort with a man no further formalities are necessary (except of course the proposal by the man or his people and its acceptance by the woman or her people) in the sense that if they are not gone through the union would not be recognized by the relations of the families or their friends. But as a rule a great deal of further formalities and symbolical ceremonies are gone through before the couple is united. The nature, form, and manner of these formalities vary in different parts, and vary also with reference to the caste and position of the man and the woman.

Questions 23 and 24.—A woman of North Malabar cannot have Sambandam with more than one man at a time. Usage, and the now well-established custom of the place, prohibits it, and there has not, in consequence, been a single instance of Polyandry there, and none is reported to have occurred for a very considerable time beyond. I believe if ever polyandry existed in the North it has been given-up long ago.

The same cannot be said with respect to South Malabar. There polyandry existed to a considerable extent (more especially among the lower division of Nayers) and a few instances may be found even now. Public opinion there also, is very strong against such a practice, and we may rest assured that in about twenty years more there will not be a single instance of polyandry to be found there.

The prohibition can be found in the almost unanimous public opinion on the point, as evidenced by the usage now existing. That such a practice is sinful and therefore prohibited, is a lesson which may be gathered from many a Sanscrit work (such as the Mahabharatha) which have been translated into Malayalam or the substance of which have been rendered into that language. These works form almost the daily reading of Malayals, and have as much influence on their opinions, beliefs and conduct, as the originals have on other Hindus.

Question 25.—If a woman wishes to terminate the Sambandham she can do so—in the sense that society has given her the right to do so in case she feels the

righteous necessity for so doing. But in practice, this right is very seldom exercised, and its exercise, in the extremely few cases which have taken place, has been viewed with disfavour. Such viewing of the matter has, I think, sufficed at least in North Malabar, to restrain its women from casting away their old or less serviceable husbands, and seeking the company of other persons more favoured by nature or by fortune. The whole Malayali community is against the unrestricted exercise of such a right. It views almost all such cases with suspicion, if not with distrust; and has a shrewd idea that all is not right with a woman who throws her husband over board and, unless the contrary be proved, it concludes that she would not do so had she not a greater expectation of benefit in store for her, which she means to realise by such unfair means. But, at the same time, society is conscious that husbands are not such paragons of virtue as to admit of their wives being tied hand and foot, and left to their absolute control. It feels that there may be many causes which would render the married state of a woman miserable to her, if she were not allowed to put an end to it in an emergency, and it has thought fit therefore that the stronger sex should realize that there is a possible limit to the unpleasantness that may be caused to the weaker, and that there is a right and a power lying dormant in woman which if excited, can put an end to the marriage relationship, without her undergoing the expense the worry and the shame of a public enquiry into the cause of separation. My answer to the question therefore is that woman has the power to terminate the Sambandham; but that its undue exercise is prevented by strong public opinion, to the extent possible to do so without doing away with the power altogether.

Except separation in bed, with the intention in either or both to dissolve the connection thereby, no sort of formality is necessary to effect a divorce—in the sense, that if the same be not gone through the dissolution will be regarded as incomplete, or not to have taken place at all, and the married state considered to continue. If the wife be with her husband, or in his house,—and she has no business to be in either place except in her character of such wife,—to effect a divorce, she ought to be sent home, for the relationship will be presumed to exist in every case in which she is under his roof and control. If the wife be sent away to her house, or if she be already there and the husband does not visit her—and the sending away and the non visiting be in pursuance of an intention to dissolve the connection,—the same is thereby dissolved without any other formality. The intention with which the said acts may be done, or left undone, is a matter for inference of no great difficulty from the surrounding circumstances of each particular case; and even if there may have been some doubt as to the other party's intention in the beginning, lapse of time, not extending to more than a few months will always set at rest the mind of the rejected as to what that intention was, or at least is for the present. For—unavoidable circumstances and design to cheat apart—there are so many acts of social and friendly obligation to be performed by the parties in the course of a year or so, which every husband, however small his means may be, would not, on pain of extreme social disgrace, omit to perform, that the omission to perform them is rightly construed to indicate an intention to sever the connection. At any rate no difficulty is felt in practice, and I know no instance of a man or woman being left in doubt for any considerable length of time as to whether he or she continues to be and is regarded as the husband or wife of his or her partner.

Question 27.—A man can have Sambandham in more than one house at the

same time—i. e. he has the right if he is so inclined, and there is no social code to debar him from doing so. But polygamy is also viewed with disfavour by the society and the members of such connections are in consequence diminishing year by year.

Questions 29 and 30.—During Sambandham, in North Malabar, as a rule, the woman sleeps and has her meals in her husband's house, or at his residence. In the South she sleeps and has her meals in her own house. But a practice similar to that obtaining in the North is growing up fast and I think, before many years elapse, there will be found a very marked change.

Even in North Malabar there is a kind of Sambandham known as *Uvamporukkal* during the continuance of which the woman lives in her own house and is there visited by her husband. But this kind of connection is resorted to only as a temporary measure, and when it is not convenient, for the time being, to go through the more formal and expensive ceremony of *Pudamuri* or actual marriage, as popularly understood. This *uvamporukkal* state is not generally prolonged to any very considerable period, and cannot, by usage, be put off later than the *Pulikudi* ceremony in the fifth, or the seventh, month of the first pregnancy of the woman. At the latest *Pudamuri* should be, and is invariably, then performed and the woman taken to her husband's house.

Question 31.—In North Malabar the practice is for the husband to support his wife and children in his house if he has the means to do so; because they live there together and the responsibility of so maintaining would, under such a state naturally devolve upon and is not very unreluctantly taken up by, the man, who generally discharges it to the best of his ability.

In the South no such practice obtains generally. The wife and children usually have their meals in their Tarawad house. Their other wants are very often supplied by the man, if he is in a position to do so. But I should think that the duty is everywhere undertaken more as a matter of love and propriety, or at most as one of moral obligation, and that it is not in the contemplation of anybody that a corresponding legal right should be or is, created in favour of the wife or children. I think the practice wants this juristic element in it to regard the same as a recognized legal custom and, as an unwilling husband cannot be legally compelled to discharge the duty, I should return a negative answer to the question.

Question 32.—As a rule, Sambandham is not changed very often and the man and wife generally manage to "cleave together" for life. In the great majority of instances this is what is observed. In the absence of reliable statistical information, one cannot say, even approximately, what percentage of connections are subsequently dissolved. I believe that the tie is more permanent in the North than in the South, and divorces by the wife what is almost unheard of in the former contributes, to an appreciable extent to the total number of separations in the latter.

Question 33.—He does; if he has the means.

Question 34.—As far as I know, no special allowance is usually made to an Anandravan who works for the Tarawad. The Karanavan may in some cases do so and does occasionally do so to induce the turning-out of work to which he has no legal claim, and he generally allows him maintenance on a little more liberal scale than he would otherwise consent to adopt. It is very seldom in the North, that an Anandravan cultivates Tarawad lands for a rent. The practice is

different in the South where he often takes up big farms from his Karanavan at a fixed annual rent, and either cultivates them himself or lets them out to tenants. In such cases he is invariably permitted to deal with the surplus, if any, at his pleasure; but the Karanavan may have something to say with respect to such dealing; but this something is said only as a matter of advice, and not as a word of command. He, however may, and, in some cases, does resume the lands if he finds that his tenant Anandravan squanders his profit, or diverts it into channels he does not approve of.

Question 35.—Many Anandravans live idle. They really find it difficult to kill their time. They cannot help it and I think, in most cases, they are not to blame for it. They have no inducement to work for their Tarawad, for any increased income that may arise in consequence of their labour, does not generally come into their hands, and they have no claim against the joint-estate to anything more than maintenance, to which they and their do-nothing brothers and cousins, (to whatsoever degree removed provided that all belong to one Tarawad) are equally entitled. A Karanavan may and often does show some favour, pecuniary and otherwise, to his working Anandravan, and meets his wants a little more liberally than he would those of others. But such favour and such allowance is not, generally, if ever, a sufficient remuneration for the labour bestowed. Anandravans very naturally, therefore, try to pursue some independant calling, or set up in some business of their own and earn something for themselves if they can; and I know no instance of an Anandravan with some money in his hands and a fair share of pluck, ever living idly in the Tarawad house working for the Tarawad, if his own undertakings—he is sure to follow some—demand his full time and attention. My answer to the question is that, in a few instances, where alone it has been found practicable, Anandravans work for their own profit; that in a greater number of instances they half-heartedly work for their Tarawad and receive some remuneration for their own use over and above their allowance for maintenance; but that in the great majority of instances they do nothing at all to better their own condition, or to increase the common wealth of their Tarawad.

Question 36.—With their private earnings and with the amount allowed to them for maintenance from the Tarawad, Anandravans meet their wants, including the support of their wives and children. Such private earnings are never handed over to the Karanavan though they may occasionally assist him in cases in which the Tarawad requires such extraneous help. It is the practice in North Malabar to allow maintenance to the wives and children of Anandravars if the Tarawad can afford it, and in such cases their earnings are not devoted to their support though they may, and usually do, meet their other wants.

Question 38.—I am one of those who believe that a form of marriage such as the law will recognize is a necessity for Malabar. I maintain that Malayalis have an organized system of relationship between the sexes, (known in different parts of the country by different names, but the same everywhere in all essentials) that such relationship is as much respected as it is in other countries, and that our women are as chaste as any that can be found elsewhere. But no legal rights or duties flow from the said relationship, and, as I fully believe that this an enormous evil, I should feel extremely thankful if means can be devised to remedy the same, without, however, at the same time, giving up to any substantial extent the freedom we now enjoy in the matter of the said relationship. I believe that so long as that state continues the

wife ought to be under the legal guardianship of the husband. No will, but her own, should have the power to compel her to live separate from him. I believe that it will be a good day for Malabar which sees the law passed which says, that the self-acquisitions of a person dying intestate should go to his or her partner and the children. Such a law will, I feel confident, mark an epoch in the advancement of the Malayali race, and in time do away with the Marumakkatayam system of inheritance altogether. I believe also that it would be a great boon not to recognize as legal impediments to marriage the many mischevous and unreasonable prohibitions which now stand in the way of persons of different divisions and localities contracting marriage with each other. On all these and similar grounds I have my full sympathy with the worthy promoter of the Bill and his co-workers. But on one point and on one point only I cannot agree with them and, though my voice may be powerless, I feel bound to give expression to what I fully, conscientiously and after mature deliberation believe to be what is right and expedient with respect thereto. I do not—I cannot—support those sections of the Bill which relate to divorce, judicial separation, and restitution of conjugal rights. I believe that the husband and wife should each have the freedom, to put an end to their relationship when he or she finds that the companionship of the other is irksome and productive of a balance of misery, after making due allowance for any compensating good. I believe also that they ought not to be compelled to have recourse to a court of law, or any other tribunal, to obtain a divorce, or a separation. No man or woman should, in my opinion, be forced by law to remain in a state of sexual alliance with another against his or her will and I can characterise the connection which is the result of legal compulsion, by no other term than that of *legalized prostitution*. For, the union between the sexes ought by the law of nature to be the result of love; and as men are agreed in stigmatizing as prostitution the act of selling ones person at the bidding of a desire for money, or other lucre, this giving up of ones person to another at the bidding of law—when natural and healthy love is averse to any such proceeding—can be aptly designated by that expression, and only by that expression. I believe that an indissoluble tie—or, to speak more correctly, a tie which, in practice, will be found indissoluble, when regard is had to the conditions imposed upon the obtaining of divorce, or separation, and the publicity a matrimonial suit entails and the shame to which it exposes the couple and other circumstances too many to mention—I give it as my emphatic opinion that such a tie will be productive of great misery to both the parties. It will be more so for the woman whom it ties hand and foot and delivers over to the keeping of a man who has ceased to care for her, and who naturally has other means of employment and pleasure to which he devotes his time and attention. To sit brooding over ones unenviable lot in the house of her protector—I had almost written *jailor* for that is nearer the truth—to eat the miserable meals reluctantly doled out to her, and to look after his affairs who perhaps has begun to hate her, is a combination of wretchedness too great to be endured. And the effect of indissoluble marriages in an appreciable number of cases, will be nothing besides. An eminent writer on social science has made the following observation on the point, “The irrevocable nature of the marriage contract and the impossibility of procuring divorce, lead to the most fearful evils. Mr. Hill shows this in his work on crime, telling us that the great majority of murders and brutal assaults now-a-days are committed by husbands upon their wives and showing that it is in the nature of all long and indissoluble contracts to cause similar evils. All contracts, binding

"two human beings together in an indissoluble manner for long periods are
 "the fruitful source of crimes and miseries. So it was with the cumbrous
 "machinery of apprenticeships, formerly prevalent in the trades, which is now
 "being gradually abandoned. It is certainly a fearful and miserable anomaly that
 "two persons who have ceased to care for—nay who have come to hate each other
 "should be bound together with iron rigour in what should be bonds of love. Surely,
 "it is a bitter satire upon love, and on the dignity and freedom of man and woman
 " For all parties it is infinitely desirable that a divorce should
 "take place Many are already in favour of a similar" (like what obtains
 "in Germany) "alteration in the marriage laws of this country". The majority of
 our women are uneducated. They have not seen the inside of a court house all their
 lives. Most of them have no notion of what a judicial proceeding is. They do not
 know what is meant by collecting evidence or preparing a case for Counsel or Judge.
 The very thought of appearing in a court of justice will unnerve most of them, and
 they would rather put up with any amount of cruelty at the hands their husbands
 than go to a court of law and give evidence in support of their claim. They are very
 shy, at least in public, and would cut a very sorry figure indeed before a public
 tribunal. Most of them cannot stand even an examination-in-chief much less a
 cross-examination by an ordinary pleader. They generally are no match for men in
 any of those undertakings which are carried on outside the four walls of their house;
 and nowhere will their imbecility be more apparent than when they are pitted against
 their husbands in a court of law. Most of the persons, servants and others who
 should naturally be called to prove their case will be inmates of their husband's
 house, who are necessarily dependent on their good will even for their livelihood; and
 they will not except in very rare instances speak the truth that may tell against their
 masters. The divorce and separation clauses of the Bill will therefore be a dead
 letter to them, and even where they have a good case a court of law will not be in a
 position to afford them relief. The misery that the indissoluble tie entails on the
 man is also great. He is made the unwilling bearer of a burden which he would
 give worlds—if he has the power—to get rid of. Whether waking or asleep the
 detested creature is near him to make his life miserable, and turn which ever way he
 may in his house (no longer his home) his now abhorred one will pursue him with the
 steadiness of his own shadow. Indissoluble marriage makes hypocrites of those
 whose unhappy lot is not to be on loving terms with each other. They are obliged
 by consideration of propriety, decency or etiquette, to keep up appearances and to
 show a smooth surface outside, when all is ruffled or stormy below. They become
 mere actors playing their allotted parts and live in a realm of deceit and unreality all
 their lives. The evil effects of the continuances of such a disturbed union on the
 children are, perhaps, even greater than what they are on the parents. Other things
 equal, I can conceive nothing more unpleasant to them, nothing more contaminating
 to their morals, and nothing more unfitting them to entertain a feeling of benevolent
 sympathy for their fellow-creatures, than living with a father and mother whose
 temper is soured by mutual hatred which is constantly exhibited in their presence.
 To err is human; but to forgive is divine. And why should law divest itself of this
 divine attribute and not forgive a man or woman who has erred in choice, and why
 should it not allow them to make a second attempt when the first is found to have
 failed? This liability to err becomes greater when we consider at what period of life
 this leap in the dark in the region of matrimony is taken. The bill allows a
 marriage to be contracted if the man is 18 and the woman 14 years of age. This

is a period of life when passion is at the highest and persons are prone to do things without much regard to consequences. Character is not then fully developed. Either or both of the parties may not have had full opportunity to study the other with a view to determine calmly and rationally how far they are suited to each other and to what extent they may be able to pull on happily together. Bad indeed must be the lot of man if such a momentous undertaking, entered into at such a period of life and under such circumstances, cannot thereafter be undone unless at very great sacrifice. Barrenness in the wife is not one of the causes for which a divorce may be procured under the bill. Yet the desire to see the offspring of our loins, to fondle it, to educate and to leave to it our belongings, is a natural and healthy desire; and it may reasonably be asked whether it is one that deserves to be relentlessly discountenanced by the law. If not the only alternatives that present themselves are bigamy and divorce, and it requires no great sense of discrimination to choose between them. The history of the marriage laws teaches us a valuable lesson. It shows that with the advancement of civilization such laws have been, and are being, modified with a view to give greater and greater facilities to dissolve the connection. The Canon Law, like the Hindu Law, prohibited divorce on any ground whatsoever. The law of Protestant England allows it on the ground of proved adultery on the part of the wife, or proved adultery coupled with cruelty on the part of the husband. A later German Law permits divorce if the parties find that they are unsuited to each other. In some of the Swiss cantons, and notably in many of the states of the United States of America, a decree for divorce may now be granted for proved incompatibility of temper. I would ask why the Malayalis should be given a rigid divorce law when the teachings of history as exemplified by the practice of almost all civilized and progressive races of the globe show that the bonds of matrimony have, in their opinion, been tied too tightly in ancient times; and that they require unloosening in many parts to render them conducive to the welfare of those whom it binds. Once before during the administration of H. E. Sir M. E. Grant Duff a petition had been presented to the Madras Government praying for the enactment of a Marriage Law for Malabar on almost the same narrow lines as is proposed by the present Bill. The matter was shelved then and I have been informed, with what substratum of truth I cannot say, that His Excellency then observed that "the nations of the West are *fast drifting* into a system very much like what is obtaining among Malayalis, and I do not see why they should take this *retrograde step*." The italics are mine, and I concur in the opinion set forth above, and I am fully persuaded that by giving up this, almost the only, good social custom which we now possess, because of the individual instances of misbehaviour few and far between, we would in the last decade of the XIX century be taking a very long *retrograde step* indeed. I may also bring to the notice of the commissioners that many persons with whom I have conversed about this matter and who hail the bringing in of the Bill as a piece of good fortune, have confessed to me that they entertain a feeling of dissatisfaction with those portions of it relating to divorce &c. and some have gone so far as to declare that, in spite of all its attending goodness, they would not themselves contract, or allow those under their control to contract a marriage of the description contemplated by the Bill—*i. e.* one that can be dissolved only under the circumstances therein set forth. I am conscious that my answer to question No. 32 may be turned against me and I may be asked why I protest against the divorce clauses of the Bill when according to my own admission most of the marriages now celebrated continue permanent and, presumably therefore, the ruffled state of con-

jugal relationship which I apprehend, and for which I want a radical remedy, has no existence in reality? My answer is this. In the first place I think that the hardship of the remaining portion should not be lost out of consideration; and secondly I am of opinion that the said majority manage to cleave on together because—paradoxical as it may seem—they are not tied up unduly tight. A give-and-take policy will be pursued by both when either knows, and feels, that the other has the power to put an end to the relationship in an emergency. Neglect or inattention in either is, in such cases, more often attributed to want of ability, or inadvertence, than to wilfulness, and a tolerably happy and harmonious conjugal life is the result. But when this state of things is reversed, and the parties are tied to each other by indissoluble ties, the consequences are likewise those of an opposite nature. The weaker party, whether husband or wife, feels the neglect keenly and attributes the want of attention or other misbehaviour, to deliberate intention, or what is worse, unthinking heedlessness; and naturally jumps to the conclusion that such conduct is the result of a consciousness that the injured cannot place himself or herself out of the reach of the other. We have a proverb which says that a person does not feel hungry, who knows that there is enough of rice in his store-room. So also a married man does not feel the necessity for a separation when he knows that he can separate if he wants. I believe that this mental state assists materially in making the marriage relation in Malabar last long, and affords a striking illustration of the mental peculiarity observable in most persons that they do not long to possess a thing if they have the means of obtaining that thing. I am fully persuaded that a union, which ought to be one of love and love alone, should not be the creature of law. When such union is brought on by love, and when its permanence is secured by love, the law may engraft on it any accessories it may deem fit. It may clothe either party with any legal right. It may impose on either any legal disability. But it has no right to bring about the union. It cannot say that Mr. So-and-so shall marry Miss So-and-so. It has likewise no right to secure permanence to the union, where the tie of mutual love is broken as under. It should not say that Mr. So-and-so shall continue to be the husband of Mrs. So-and-so even though as a matter of fact the said Mister and Mistress have ceased to love and care for each other. My views on the question of separation partake of a similar character. I would leave it to the entire discretion of either of the parties to determine whether he or she shall live in a state of conjugal union with the other. As to restitution of conjugal "rights", I would never recognize such a right at all in man or woman. I can conceive nothing more mean, and nothing more unbecoming those noble attributes which distinguish man from the mere brute creation, than subjugating a fellow creature by superior force, or show of such force, to the carnal desires of another. Such a spectacle is too abhorrent to behold. Such a complete prostitution of love is too saddening to contemplate. The moral depravity of the being in human shape that would drag another into court to obtain the assistance of a perverted and unnatural law to bend that other to satisfy its (I can use no other personal pronoun) unholy lust, and the powerful arm of the law lending its aid to such a disgraceful proceeding, is too contemptible and wretched a state of things to contemplate with any degree of equanimity of temper, except to those who enter into it, and to those who lend it their assistance. I, for one, would put up with any amount of rigidity in the marriage tie, and I may even consent to making that tie indissoluble under any circumstances, but I cannot agree to a law awarding restitution of conjugal rights, and I cannot therefore, let this opportunity pass without entering my solemn, though feeble, protest against the morals of Malayalis being contami-

nated by the plague of such a law. I would sit tamely under the reproach—if reason for reproach exists—that Malayalis have no legal marriage, and that the recognized form of union between the sexes among them is but systematic concubinage; I would forego the many benefits proposed to be conferred by the present Bill; I would brace myself to forget what an amount of inducement it gives to individual exertions, industry and thrift; I would even run the risk of leaving my wife and children unprovided for, though I have ample means at my command;—I would do all these and I would submit to all these—if these benefits can be had, and if these evils can be removed only at the alternative of voluntarily submitting to a law of which a provision for restitution of conjugal rights forms an integral part. The following is a rough sketch of the scheme I would propose for marriage, divorce and judicial separation. I would, as my answer to question No. 39 will show, retain the customary form of marriage, and make registration evidence of its legal recognition. I will have the parties sign a declaration of marriage in the presence of two witnesses, and have it lodged in the office of the Sub-Registrar in whose jurisdiction either of the parties habitually resides. The Sub-Registrar after satisfying himself as to its *bonâ-fide* execution, is to register the same in a book called “The Marriage Register of Marumakkatâyam Hindus.” He shall retain the original in safe custody, and give attested copies to the parties, and have a notice of such registration stuck-up on the outer wall of his office, where it shall remain at least for a month. I should deem these formalities sufficient, and necessary to constitute a valid legal marriage. Next as to divorce. If either party wants a divorce he (or she) should send in a written petition to the office of the said Sub-Registrar stating, without reasons, his or her desire to be freed from the union, and stating also what amount the petitioner claims, or is willing to allow the wife, for her maintenance after divorce. The Sub-Registrar on the receipt of the petition is to cause notice of the same (with copy of petition annexed) to be served on the opposite party, and communicate to petitioner that the petition has been received and registered in the “Marriage petition Register” kept for the purpose. From and after the dates of receipt of either the notice, or the communication, aforesaid, either party shall have the right, if so advised, to live separate from the other; but for all other purposes the relationship shall be deemed to subsist unimpaired. If after the expiry of six months from the date of receipt of the first petition a fresh written application is sent to the Sub-Registrar requesting him to take further proceedings in the matter, he shall, after satisfying himself as to its authenticity, make a note of the same in the petition register and forward the papers to the District Munsiff of the place. The receipt of such papers shall be tantamount to the institution of a suit, and all subsequent proceedings shall be regulated by the Civil Procedure Code. If the petitioner there also persists in obtaining a divorce a decree granting the same shall follow as a matter of course. Maintenance at a fixed rate shall be allowed to the wife—the same being determined by reference to the means of the parties and the surrounding circumstances of each case—and the same may subsequently be varied for good cause shown. The same procedure—with necessary alteration—may be adopted when the prayer is for judicial separation. Maintenance allowed to a divorced, or separated, wife may be reduced or stopped by order of Court, if she marries again and her new husband has private means of his own to support her, or if she is proved to be leading an unchaste and immoral life. The husband shall continue to be the legal guardian of the children even after separation and shall be bound to maintain them till they attain the age of 21 years, or until, being females,

they are suitably married earlier. They may be allowed separate maintenance if the father is adjudged incompetent to act as legal guardian, or for any other sufficient cause. All orders in matrimonial proceedings shall be subject to appeal and second appeal. A divorced couple may reunite after six months after separation, and a separated couple at any time they choose, provided they give notice thereof to the Sub-Registrar. I would by an express section disallow the right to institute a suit for restitution of conjugal rights; but the husband shall be permitted to institute proceedings to obtain possession of his wife and minor children, if they are illegally detained by any other person. The provision that six months ought to elapse between the first and second applications for divorce, and that the marriage relation shall be deemed to subsist in the interval, will I think greatly mitigate the evils now existing in Malabar and which are pointed out by the supporters of a rigid matrimonial law. *Firstly*;—it prevents haste, and gives time to the parties seeking divorce or separation to re-consider their action or heal existing breaches. *Secondly*;—adultery continuing to be penal in the interval it prevents the wife from leaving her husband with the immediate aim of joining her new admirer. *Thirdly*;—it prevents sudden elopements. It may be objected that the scheme propounded above does not materially alter the present state of things and that an absolute freedom of divorce is incompatible with the very idea of marriage. As to the first objection what I would reply is that change, as change, is not what is wanted; and that, in order that a fair proportion of marriages may be celebrated according to the form prescribed by the Bill, only such changes ought to be introduced as are proved to be absolutely necessary. As to unrestricted freedom of divorce being incompatible with marriage, what I have to say in the first place is that in my scheme there is no such freedom as is understood by the objection. The husband is the guardian by law of his wife, and he has the right to keep her under his control, and he may sue to recover her in case she is illegally detained by another. At least six months ought to elapse before a divorce can be obtained, from the time an intention to effect it manifests itself in plain terms. Though the determining cause of divorce or separation be the party's own will yet the actual untying of the Knot is done only by a decree of court. I maintain further that freedom of divorce such as I would allow may well co-exist with and form part of a sound marriage law. Among the ancient Romans the marriage relation could have been terminated at the free will of either party, yet nobody now says that they had no marriage. Among the Mahomedans it can be done away with at the mere will and pleasure of the husband without any formality worth the name. Yet the Law recognizes their marriage. The statement that absolute freedom of divorce is incompatible with the very idea of marriage is true only of such systems which regard marriage as a religious institution and not a civil contract. It was not so regarded by the Romans till the time of their conversion to the Christian faith. The law now administered in several parts of the United States of America regards marriage as a civil affair, pure and simple. I do not see why it should be anything besides with us, who are only now on the eve of obtaining a marriage law at the hands of the Legislature. According to the said American Law a divorce may be obtained on the ground merely of proved incompatibility of temper. And this is very much the scheme propounded by me. This incompatibility of temper, in the very great majority of instances is a matter of necessary inference from the mere fact that a divorce is sought to be obtained. The American law stops short of drawing the inference and requires it to be established by proof. To avoid scandal and to secure real domestic happiness, I assume the existence of such in-

compatibility in *all* such cases and allow separation or divorce, on the basis of such assumption. None have characterised the relationship of the sexes in America by any other name than that of marriage, and I do not see why a union which may be terminated in the manner suggested by me should not be similarly regarded. I hope that the Commissioners will find their way to recommend to Government the adoption of some such scheme as is set out above, and that at all events they will allow the marriage tie to be dissolved in all cases in which it is permitted to be dissolved in America and Germany.

Question 39. I would retain the customary form of marriage and make registration evidence of its legal recognition. But no marriage should, in my opinion, be deemed invalid because of the defect or absence of any form, provided there exists the registry to evidence it.

Question 40. The section as it stands allows a marriage to be solemnized between a Tiyan and a Nayar, and between a woman of superior division of Nayars and a man of the inferior division. But it would be impossible to set out and set out correctly all such and similar restrictions as are now more or less recognized in practise in several parts of the country, and I do not consider it advisable to do so, even if it were possible. Custom and public opinion may be depended upon to prevent any very unusual unions till the time comes—and come it must—when such distinctions will be swept away. The section as drafted would, in practise, create no real difficulty, and will meet future probable contingencies.

Question 41. (1) I would add a third proviso to clause 4 to the effect that no marriage shall be solemnized between any two persons who are members of the same Tarawad having community of interest with each other. *Reason.* I know of many families, now living in commensality as Tarawads, some members of which are connected with one another through a common ancestress more remote than the great-great-grand-mother. A marriage between them cannot of course, be permitted. (2) I would add a proviso to clause 3 to the following effect. If the parties represent that they are 21 years old or more and the Sub-Registrar registers the marriage, the same shall not be deemed as invalid if it subsequently appears that either or both the parties were below that age, and the guardian has not given his consent to the union. *Reason.* Marriage is one of those undertakings in which what is done should not, if possible, be undone or nullified. It is desirable therefore to maintain the relationship in all cases in which it can with propriety be maintained, and in my opinion the above is one of those cases. Suppose a man and woman are married in the customary form and they wish to have their union legally recognized. The Sub-Registrar—a man of education and good social position believes their *bonâ fide* representation that they are of the age prescribed by law and registers the marriage. They grow rich and die intestate. Suppose in this state of events conclusive evidence is forthcoming that the mother was under age by a day, and that her legal guardian had opposed the union. Could it be endured that their children should be deprived of their birth-right because their parents and the Sub-Registrar fell into an honest error many years ago? (3) I would alter the wording of clause 3 as follows:—"The legal guardian of each party must, have consented to the marriage if such party has not completed the age of 21 years." *Reason.* The framer of the clause cannot have meant that the party who is under age should himself or herself have obtained the consent of his or her legal guardian, and that it would not be sufficient if the one obtained it for the other, or if some body else, a friend or relation obtained it for either. (4) I

would have it stated in express terms what all kinds of unions are to be deemed prohibited on the ground of affinity. *Reason.* I think that usage now prohibits marriages on the ground of affinity to a greater extent than is necessary or desirable. At the same time such usage is not uniform and some connections, such as the marriages of two sisters by two brothers, are prohibited in some parts and allowed in others. To marry a deceased wife's sister is considered bad throughout Malabar, though there have been some instances of such marriages in high quarters and though in reason, such a connection is in many instances the best that a widower can enter into. A sister-in-law is often one of the household; and is the fittest person to take care of her motherless infant nephews and nieces. The usage of some parts even goes to the extent of prohibiting a second marriage in the family of the late wife or husband, however remotely the deceased may be connected with the person with whom such marriage is sought to be contracted. Again; if it be not defined what sorts of connections are to be deemed disallowed on the ground of affinity a large door will be opened for perjury and for fraud to creep in, and interested parties will seek to have many marriages declared void because of some real or supposed prohibition on that ground. Difficult and hitherto undetermined questions as to what the "recognized custom" is, will now and then, have to be enquired into by the Courts and this state of things will continue until, as the result of many litigations in which many unions are declared void and several persons disinherited, the law becomes settled and yet not uniform. According to social usage the following are considered reasonable grounds for dissolving a Sambandham :—

1. The insanity of either.
2. Impotency in man.
3. Either party being subject to nasty and incurable disease.
4. Adultery, or well grounded suspicion of adultery, on the part of the wife.
5. Adultery coupled with cruelty on the part of the husband.
6. Cruelty alone on the part of either, and of such a character that a person of ordinary temper, patience and endurance will not put up with.
7. Incompatibility of temper to a degree rendering the union productive of misery to either.
8. Systematic disregard on the part of the wife of the expressed or otherwise well understood wishes of the husband concerning his honor or happiness.
9. A mutual understanding to separate.

Question 43.—Vide my answer to question No. 33 supra.

*Question 44.—*Clause (a) I agree to this clause, but, as it does not meet all contingencies, I would add to it the following :—"or if in the opinion of the District Court or High Court within whose jurisdiction either of them may habitually reside, such guardianship is injurious to the moral or material welfare of the children and their guardianship may be otherwise adequately provided for. Clause (b) I do not think that it is desirable to create legal liability in the father to maintain his children who are adults or who have settled themselves in life. So far as I know, no system of law imposes such an obligation on him, where he is not also the custodian of sufficient properties to which they have acquired a right by birth. I would also

substitute "shall not forfeit" for the words "shall retain" for, otherwise, the clause may be construed to mean also that they shall not have the power to renounce their rights on the Tarawad if they think it desirable to do so. I would also add "and father" to the end of the clause. I would therefore alter this clause as follows:—"The wife and children shall not forfeit their rights as members of their Tarawad and she and such children as have not completed the age of 21 years, and being females are not suitably married earlier, shall further be entitled to claim maintenance from the husband and father." Clause (c). I would alter this sub-section also on the same lines as are suggested in my remarks on clause (a) above. Clause (d) I fully agree to the sub-section as it stands being retained and have no suggestion to make to alter it in any way. Clause (e) For the last three words "wife and children" at the end of the first sentence of this sub-section I would, for reasons already given, substitute the following:—"wife and such of the children as have not completed their 21 years of age and, being females, are not suitably married earlier;" and for the same words in the next sentence I would substitute "wife and such children."

I have the honor to be

Sir,

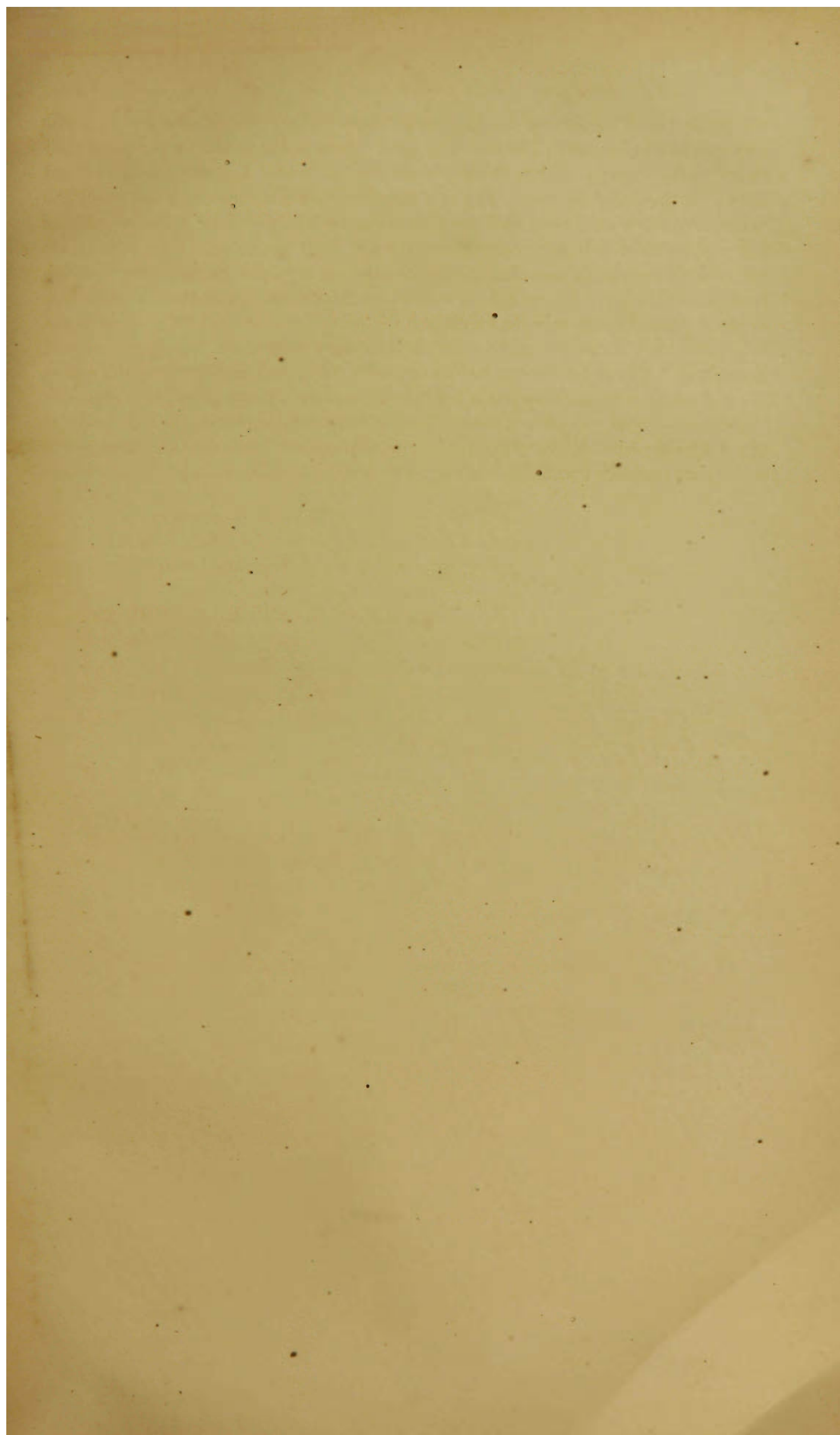
Your most obedient servant,

(Signed)

K. KRISHNA KURUP,

High Court Vakeel,

Tellicherry.



CALICUT:

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

Extracts from Answers to Interrogatories

BY

M. R. RY. K. RAMUNNI AVARGAL,

Pensioned Tahsildar,

Marumakkathâyam Tîyan,

TELLICHERRY.

23. In South Malabar it is allowable while in North Malabar it is not.

24. That the Nâyar women of Kerala need have no chastity is an immemorial precept. The reason of this is that among Kerala Brahmans only the eldest son is allowed to marry ; the rest are to consort with Nâyar women. Since there is no rule of chastity among the latter, and as they can accept as many men as they like, this custom has come to be regarded as if it were an institution.

38. There is no objection whatever.

44. I entirely agree with the provisions shown in the margin.

(Signed) K. RAMUNNI.

True Translation,

H. M. WINTERBOTHAM,

*Collector,
on Special Duty.*

EXTRACT FROM
ANSWERS TO INTERROGATORIES

BY

M. R. RY. K. V. CHAPPUNNI NAYAR, AVARGAL,
SHERISTADAR,
PONNANI TALUK.

19. Tālikettu ceremony must be undergone before the girls attain the age of puberty. It cannot be said that only custom can be pleaded in justification of this practice. It is in accordance with the custom obtaining among the Brahmins. It seems that in Manapuram (South portion of Ponnani Taluk) kalyānam ceremony is undergone after the girls reach the age of puberty. Among Malayali Brahmins marriage sometimes takes place after the age of puberty.

20. There are no formalities among Nayars. There is only the formality of fixing a day on which the Sambandham is to take place. This does not constitute a ceremony worthy of mention.

21. No. The same formalities are not observed. Generally they go to the bride's house with the consent of the members of the house and form Sambandham. Some Brahmins are in the habit of taking a quantity of betel and nut and leaving it in the bride's house.

22. There is difference between the formalities in North Malabar and those in South Malabar. In North Malabar Sambandham is known by the name of Pudamuri. In cases in which Sambandham is formed with a girl, who is too young to be taken by the husband to his own house, it will be in the form known as Ūvamporukka. In some places this form of Sambandham has been called Vīdāram kūduga. The man, in company with a few persons, goes to the bride's house with betel and nuts. There will a feasting on a small scale in the bride's house. Sambandham is contracted on the day. With all these, the Pudamuri must be celebrated subsequently. This last mentioned ceremony is briefly described as follows:—

The style in which Pudamuri is celebrated depends upon the social position of the head of the house. The number of friends and other persons that accompany the bridegroom varies (it may be a hundred or more) according to the social status of the bridegroom. The quantities of betel and nut, and number of clothes taken to the bride's house, likewise depend on his rank. After the feasting is over the bridegroom is shown his way into a hall, with the betel and nuts and the clothes. There is also the custom of the bride and bridegroom's cutting cloth. An amount (Rs 64, 32 or 16) as the case may be such as the means of the bridegroom would allow, is tied to one of the corner ends of the cloth and left in the house. The next morning the bride is taken to the husband's house accompanied by the same persons as went with the bridegroom on the previous night. This is the general custom prevalent in North Malabar. There is a slight difference between this and that which obtains at Pallikunnath in Chirakal.

In South Malabar among some people the Sambandham is celebrated with a feast on a small scale, while among others the eating part of the ceremony

takes place in the bridegroom's house, after which the bridegroom proceeds to the bride's house. Here also betel and nut are taken to the bride's house; and the number of friends that accompany depends on the position in society of the bridegroom. If Brahmins happen to be present at the ceremony they receive presents from the bride's as well as the bridegroom's property. Those that carry betel and nut also receive presents from the bride's people in the shape of clothes.

23. Generally prohibited; but in Cherpulcherry in Walluvanad and Manapurath in Chowghat—both places in South Malabar—this custom was in vogue some time back to a great extent. I presume it is impossible to say that even now there are not rare instances of it.

24. This practice is not one which is based on any authority. Respect had to be paid to the commands of the rich land-lords and of the Malayali Brahmins, who were the Janmis of the land, and in paying this respect the practice had its origin. A precedent has been furnished by the Pândavas and perhaps this may be cited as an authority for the practice.

25. There is no objection to it.

26. No formality is observed among Nayars. If, in South Malabar a person fails to send money &c., on any of the *Onam*, *Vishu* or *Tiruvâthira* days the presumption is that he has severed his connexion with the woman.

27. Yes. He can have.

28. There is nothing to prevent it.

29. In North Malabar as a rule in the husband's house. In South Malabar in the wife's own house except when she lives with the husband.

30. With the difference above indicated.

31. According to custom not the entire support. In South Malabar the feeding charges of the woman are met by the Tarawâd and clothing &c., by the husband. In North Malabar on the contrary the wife and children are under the entire support of the husband.

32. In certain cases changes occur. Should the woman take care to preserve her chastity and fidelity towards her husband, they cling together for life.

33. He usually does feed and clothe them.

34. Not made as a rule, all his expenses are incurred by the Tarawâd. Rare cases there are of Anandaravars cultivating Tarawâd land for rent. They can deal with the surplus, if any, at their pleasure. But this is very rare.

35. In most Tarawâds they don't work but pass their days in idleness living upon what they can get from the Tarawâd. Some, in a few instances, work for their Tarawâd, and there are some that earn something for themselves.

36. Formerly they used to hand over their earnings to the Kâranavars; but now they reserve them for their own use.

37. In North Malabar among Nayars and Marumakkathâyam Thiyars some articles known by the name of കട്ടത്താണി (Kattathânam) and money for the expenses of the pollution ceremony are customarily sent to the widow on the death of her husband. There is also the actual giving of property as *Puthrâvakâsam*. Whereas in South Malabar only money is given for the expenses connected with the പൂക്കളി (Pūḷa-kulī=funeral-ablution) ceremony.

38. There is no objection whatever—such a law is highly desirable.

39. In addition to having the Sambandham celebrated in the customary way, it should be solemnised in the following form in the presence and hearing of the Adhikari of the amsam, or the neighbouring one, and of three witnesses :—

I (A) take thee (B) to be my lawful wife (or husband). This declaration should be registered by the Adhikari and sent to the Registrar's Office to be there filed. This is the form which I would prefer.

40. There is difference. It is confined to conditions 1, 2 and 3 in the margin.

41. The conditions are not very objectionable, but I would like to add some more.

(1) It is necessary that some conditions should be put in with reference to persons who have, and would retain two wives, and who at the same time like to enjoy the benefits of the proposed law. There are many persons of this description who, owing the fact that they have two wives, labor under the disadvantage of not having their marriage legalised. If they would have marriage with one legalised, they would necessarily have to leave the other without a husband.

(2) The man must have completed the age of twenty-one years. It is only at that age that he gets a fair education and experience of the world.

(3) Whatever may be the age, the parties should have the consent of their guardians or Kâranavans, if they happen to be under their guardian-ship. Otherwise there is likelihood of members of the Tarawâd becoming insubordinate and thus creating discord.

But if the parties are not minors and if their respective Kâranavans do not consent to his or her union with a member of a respectable family, the fact of his or her intention to marry and the particulars of the man or woman with whom the union is contemplated, should be intimated to the Kâranavan by means of a registered letter at least.

42. If either the male or female happen to suffer from any incurable or contagious disease, or be a lunatic, or if one of them be impotent, or commit adultery, it will be reasonable ground for dissolving the Sambandham.

43. Former custom was that given in answer to question 31. Respectable people in South Malabar now use to maintain their wife and children. In North Malabar the custom is the same as it was before.

44. Of the new rights proposed I am in favor of those shown as *a*, *b*, and *c* in the margin.

(*d*) The self acquisition should not devolve on the Tarawâd. On default of proper heirs, the property of the man who died intestate should go to his brothers and sisters.

(Signed.) K. V. CHAPPUNNI NAYAR,

Sheristadar, Ponnani Taluk.

(True translation as near as may be).

H. M. WINTERBOTHAM,

Collector on Special Duty.

TO,

H. M. WINTERBOTHAM Esq.,

Collector of Malabar on Special duty.

I beg to acknowledge receipt of your order dated 8th April regarding the Marriage Bill.

1. I am fully of opinion that it is very desirable that, in the place of the so-called uncertain Sambandham now customary among the Malayali Hindus under the Marumakkathâyam, or Aliyasantâna law, a law (even though it be permissive for the time being) should be passed enabling such Hindus to contract a marriage such as the law will recognise.

2. And that the said Hindus should be given the power of disposing of their property at their pleasure by will.

The reasons why it is considered that marriage should be recognised by law are :—

(1) The form of Marriage now prevalent among the Marumakkathâyam Hindus in Malabar known as Sambandham, with its contemptible features, was originally a creation of the Malayali Brahmins to satisfy their selfish desires. It is not in accordance with any shâstra, or law, and is of a very miserable character.

(2) In the absence of any special custom imposing restrictions on the formation and dissolution of such a Sambandham, the males have the liberty of forming as many Sambandhams as they choose, and females in some parts of Malabar following the example of males take more husbands than one. This abominable practice has been, and is still, in existence under the Sambandham system.

(3) Under this foolish but immemorial custom of contracting Sambandhams, if a man of ordinary respectability disposes of his self-acquisitions before hand among the Anandaravans and wife and children, it gives rise to disputes between the two parties, each contending that the other had been given more, and the result is that between the nephews and sons the man is left neglected and uncared for.

(4) Sometimes it happens that a man who keeps his self-acquired property undisposed of during his life time, dies all of a sudden, and then the Anandaravans appropriate the property sparing nothing for the wife and children of the deceased.

(5) The Anandaravans thinking that they are the sole claimants to the acquisitions of the Kârnnavans, waste their days in idleness without doing any work. There are various other evil consequences traceable to the existing system of Sambandham.

The Necessity for giving power to dispose of property by will is shown by the following considerations :—

(1) Among the Marumakkathâyam Hindus there is a likelihood of the self-acquired property of a man passing after his life time into the possession of people who are not his proper heirs. Suppose a man following the existing Marumakkathâyam law has made a large acquisition of property. Now, if he dies suddenly, while he has his parents, brothers, wife and children still living,

all these properties, according to the above law, go to the Kâranavan of the tara-wâd, who perhaps belongs to a totally different branch of the family. The near relations of the deceased are thus left to starve.

(2) The nature of deeds of gift, as they are at present, is such that it gives power to the party that got the gift to deal with the gift property at his pleasure irrespective of the wishes of the donor, thus rendering the donee too independent.

I beg to remain,

Sir,

Your most obedient servant,

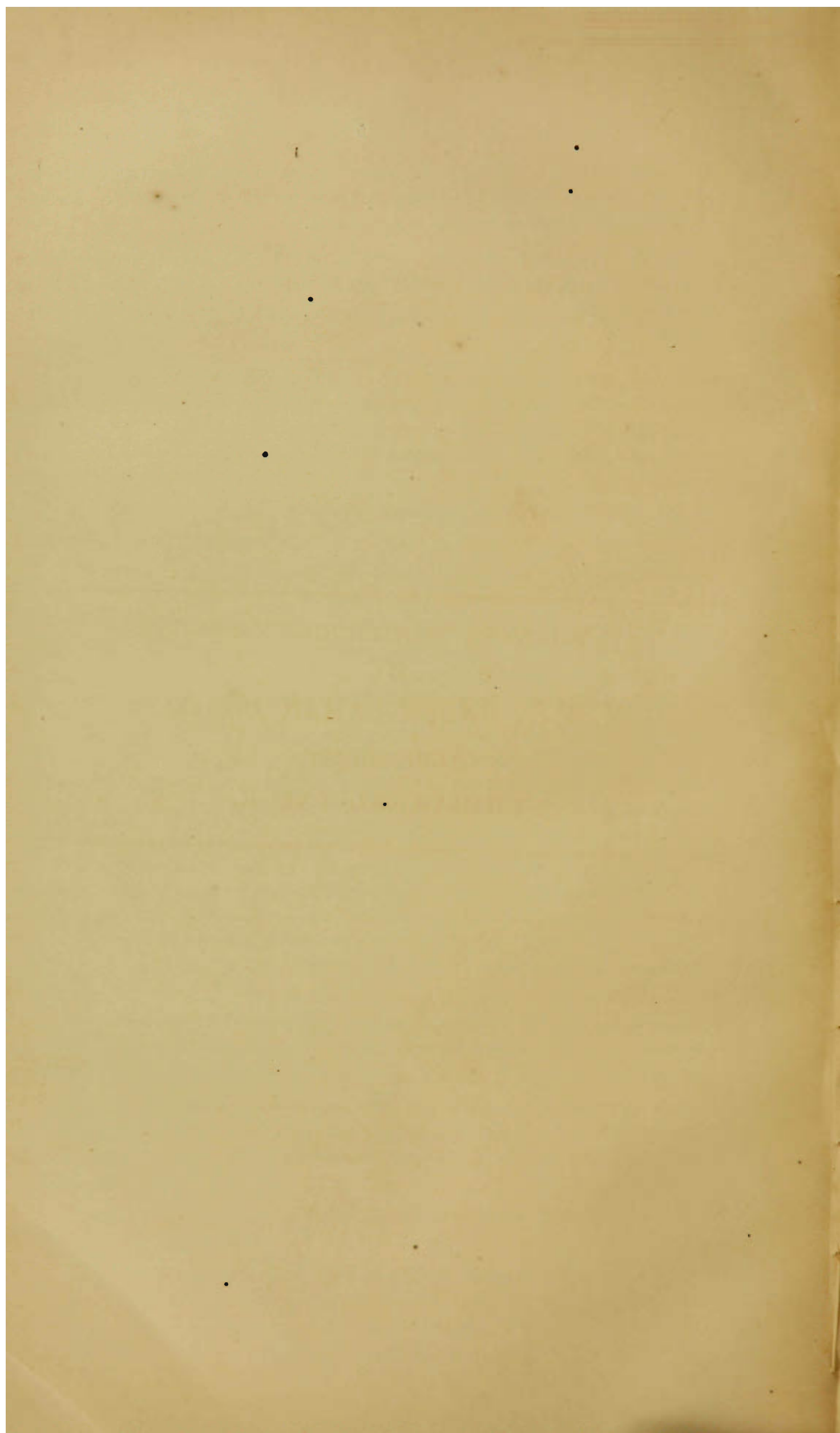
K. V. CHAPPUNNI NAYAR,

Sheristadar.

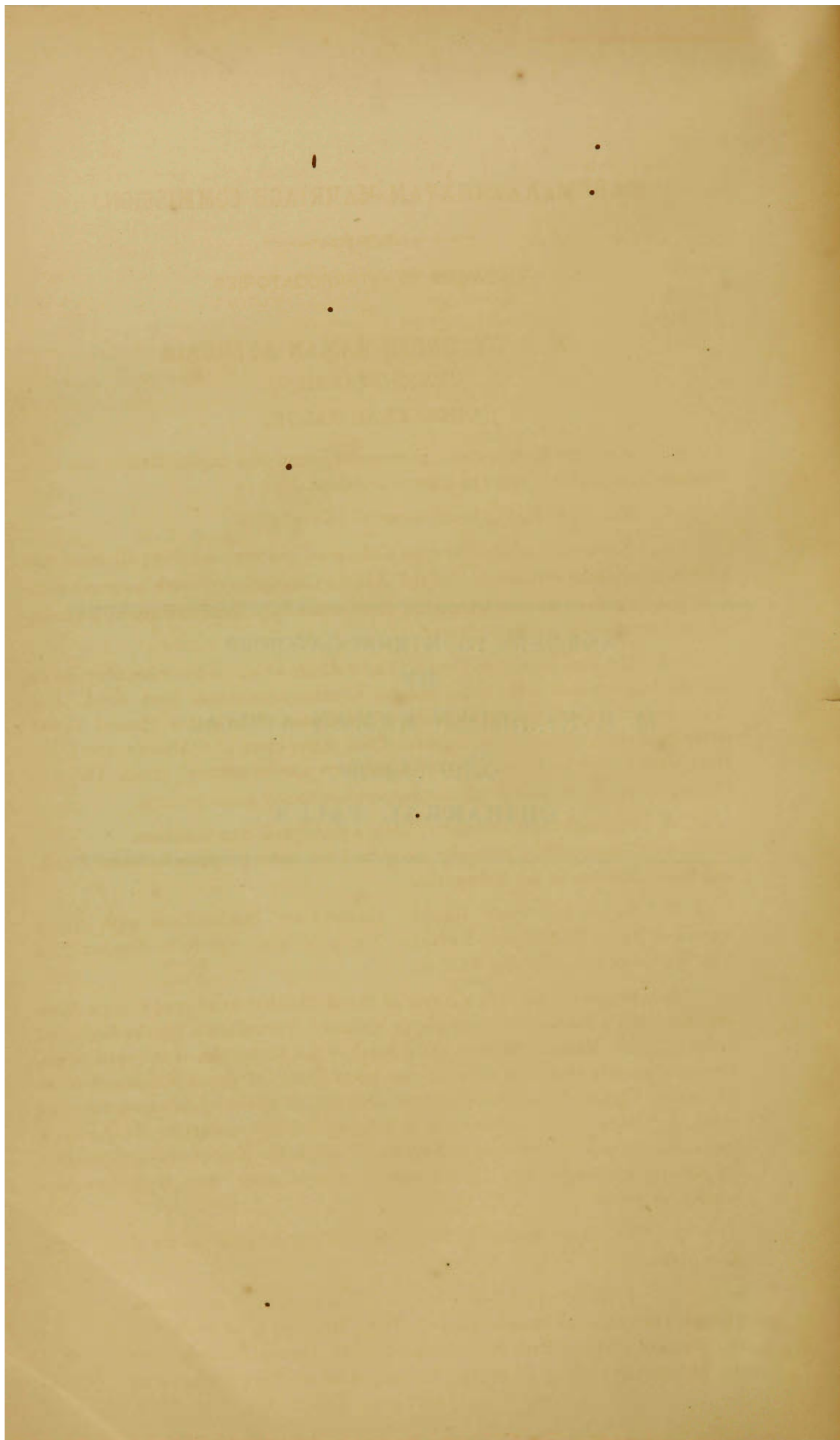
(True translation as near as may be).

H. M. WINTERBOTHAM.

Collector on Special Duty.



ANSWERS TO INTERROGATORIES
BY
M. R. RY. ONDEN RAMAN AVERGAL,
Sheristadar,
CHIRAKKAL TALUK.



MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. ONDEN RAMAN AVERGAL,
SHERISTADAR,
CHIRAKKAL TALUK.

1. Amongst Nayars and higher castes a man of a higher division can have Sambandham with a woman of a lower division.

2. The above liberty is not accorded to a woman.

3. Nayar men of the Purathu Chârnathu (പുറത്ത ചാർനത) division can have Sambandham with women of the Akathu Chârnathu (അകത്ത ചാർനത) division, but no men of Akathu Chârnathu division can have Sambandham with women of the Purathu Chârnathu division.

4. If a man or woman form a Sambandham which is not customary, he or she will be subjected to the social penalty of excommunication from caste. But in the case of Nayar men, cohabitation with a woman of the higher class of Variar (temple-servant) down to a woman of the lower class of Châliar (weaver), the Malayalam phrase for it being “പാരിയത്തനിന്ന പാലിയത്തോളം” (from Vâriar to Châliar) is allowable and it will not subject him to any social penalty.

5. Prâyaschitham will not validate a prohibited Sambandham.

6. The boundary generally recognized for caste purposes between North and South Malabar is the Korapuzha.

7. Nayars of South Malabar cannot form Sambandham with Nayar women of North Malabar, but Nayars of North Malabar can form Sambandham with Nayar women of South Malabar.

8. It is very rare that a Nayar of South Malabar is allowed to form Sambandham with a Nayar woman of North Malabar. Interdiction for the Nayar females of North Malabar to cross to the South of the Korapuzha is the chief cause. The next cause is that it is usual for the lower classes of South Malabar such as Pallichân, Vânian, Valinjian, Velakatharaven &c., to add to their names the caste name of “Nayar” and therefore it is always a difficult matter to distinguish a lower class from a higher class of Nayars. Thirdly, the Nayars of North Malabar are always unwilling to give their women to men of other than their own community, or *yogam*.

9. The Nayar women of North Malabar cannot cross to the South of the Korapuzha.

10. The above prohibition was, in my opinion, more on account of military grounds than on caste considerations. North Malabar, as at present defined, less the southern portion of the Kurumbranad Taluk, formed formerly the kingdom of the Kolattiri dynasty. To prevent the migration of Nayars who formed the mili-

tia of the above kingdom, their women were prohibited from going beyond the boundaries of that kingdom on pain of losing caste. If the women are prohibited the prohibition must necessarily hold good also with men, because, they must be unwilling to leave one place to another without their women. The penalty of losing caste and that by women, was only intended to make the prohibition more effective. According to this, the correct boundary between North and South Malabar, for caste purposes, must be the Kottakadavu (Marat river) and not the Korapuzha, because, the country beyond the Kottakadavu and within the Korapuzha forms the Southern portion of the Kurumbranad Taluk, which did not form part of the kingdom of the Kolattiri dynasty. However it may be, it is the Korapuzha that is now generally recognised as the boundary between North and South Malabar for caste purposes.

11. *Tháli Kettu Kalyāṇam* is the ceremony of tying the marriage badge, or nuptial string. *Tháli* is a small, thin, gold, neck ornament, with a gold bead on either side of it, and attached to a string made of cotton-thread. *Thálikettu* is supposed to be an imitation of the marriage ceremony of the Brahmans. I do not feel competent to describe this ceremony which is customary amongst Nayars, and therefore my description of the ceremony given below relates to what is prevalent amongst Tiyars of North Malabar, especially, of Cannanore:—

(1) An auspicious day and hour will be fixed beforehand in consultation with the Kanisan, or Kaniyan, the local astrologer, for tying *Tháli*. *Thálikettu* is, usually celebrated in the odd number of years of age of the girl, namely, 5, 7, 9, and 11. No postponement is allowed beyond the age of 11 years.

(2) On the evening of the third day before the day fixed for tying *Tháli* the girl is bathed. Before bathing, the local caste-barber woman കവലച്ചി and the local caste washer woman പള്ളിയാക്കി must be present. The latter has to bring with her a *mattu* (a piece of washed cloth or *pudava*). The mother of the girl (*Kalyānakutti*) accompanied by 5 or 7 females, who carry with them a lit up lamp, a *niranāzhi* a cut tender cocoanut with beaten rice and plantains, comes to the court yard of the house on the east, with a plank used for sitting purposes, and a *Kinnam* or brass-dish, containing half a seer of rice. A *niranāzhi* is a quarter measure full of rice, placed over a *pudava* in a *kinnam*, or brass dish. The mother keeps the plank in the court yard, over which the *Kinnam* with rice in it is kept. In this *Kinnam* the washerwoman keeps the *mattu* brought by her, repeats some verses invoking the mercy of all the gods in favour of the girl, and then calls upon the mother to take the *mattu*. The mother takes the *mattu*, after giving betel and nut to the washerwoman, and carries it to the middle room പാലത്തറക്ക, accompanied by the other females. The barber woman takes the *mattu* and dresses the girl with it, covering the body with one portion and the head with the other portion. The girl is then brought out into the court yard, accompanied by females always in odd numbers, and also by another girl who has not passed through the ceremonies of a *Tháli Kettu*. She is intended to be a companion to *Kalyānakutti* and is known by the name of *Kanjikkalam*. This girl carries with her water in a *Kindi* (കിണ്ടി) brass-pot. The girl (*Kalyānakutti*) takes her seat on a plank in the court yard where there will be provided water in an *uruli* (ഉരളി) brass pot, and all sorts of green leaves, such as, jack, mango, pepper, betel, &c., folded in the form of a spoon. There will also be three *Arayál* leaves (അരയൻ *Ficus religiosa*) folded and tied. This each female takes in turn, dips into a tender cocoanut, takes it three

times round the head of the girl and sprinkles the tender cocoanut water in it on her head. Then one of the other leaves folded in the form of a spoon is taken in which the water in the *uruli* is taken and poured on the head of the girl. In the water left in the *uruli*, which is kept in front of the girl, half seer of rice is put and shaken round when the girl puts in it some flower cuttings, usually *thumba* (thumba Leucas Indica). When the water stands still, the females gathered examine it. If the flower cuttings stands on the east it is considered a favourable sign. With the rice in the *uruli*, conjee is made and partaken of by all the females afterwards.

3. The girl is then taken inside the house. A separate place is prepared for her in a room other than the middle room, usually it is the *châyippu* (ചായിപ്പു) the room to the west of the middle room. There a white cloth over a calico (പെളുയു കരിമ്പടപ്പ) will be spread, under which at the foot of it will be thrown a handful of paddy, and on the head side the same quantity of rice. It is over this the girl sits or lies down in company with her *Kanjikkalam* during the three days she is kept apart from others. They cannot be touched by any body during these days of separation, and they cannot see any lower caste people, such as, Mapillas, Pariahs &c. This part of the ceremony is known by the name of Thiretti Vekkal (തിരട്ടിപെക്കൽ), the meaning of which is putting aside as if for the first menstruation.

(4). On the day fixed for *Táli kettu*, the first thing to be done is to take the girl to a tank for bath in procession, attended with music and accompanied by all the females invited for the ceremony, carrying a lit up lamp and *Niranâzhi* with them.—After bath, she is made to cut a cocoanut at the tank. She is then taken back to the house in procession. She is taken to the middle room where a *chêla* (Silk or coloured cloth) to be brought by the washerman, will be kept in the same way and with the same formalities mentioned above when the *Mattu* is brought by the washerwoman. But in the case of *Chêla* it should be accepted with lit up lamp and *Niranâzhi*, by 5 or 7 males and not females. This will be done when the girl is away for bath. The girl is then dressed in this *Chêla* by the barber woman, who is the master of the ceremony by the right, I think, of belonging to the *Kāvuthian* (കാവുതിയൻ-barber) caste who has the privilege of removing pollution of birth and death. The girl is decked with all sorts of ornaments. A *thâlapoli* (താലപ്പൊലി) is then prepared, that is, in a *Kinnam*, or brass-dish, half seer of rice is kept and over which cocoanut flower and unbroken husked cocoanut, with the tuft of fibre at its end, which tuft will be wrapped in oiled cloth and lighted, will also be kept. This *thâlapoli* the girl holds in her both hands.

(5). When thus prepared, the Aunt (uncle's wife) of the girl accompanied by 7 or more females in odd numbers, with lit up lamp and *Niranâzhi*, goes to the Pandal erected in the middle of the front courtyard with all sorts of decorations according to the means of the parties. The aunt carries in her hand a wooden plank decorated with yellow lines intended for the girl to sit upon. The aunt, with the other females, and plank in hand, goes round the above Pandal three times and enters the Pandal, in the middle of which there will be a rectangular space or *kalam* (കളം) made of 21 edangalies of paddy within which will be heaped a large quantity of rice over which the prepared plank will be kept by the aunt, who then takes a seat behind it upon a plank. Rice will be sprinkled over her by all the attendant females who go back to the house with the lamp and *Niranâzhi*. If there are more than one *Kalyânakutti* there will be so many number of Aunts

and prepared planks. After this, the barber woman calls out three times to the local astrologer whether the auspicious time for the *Kalyānakutti* to enter the Pandal is come. On his replying in the affirmative, the girl starts with the *thâlapoli* in her hands accompanied by the *kanjikalam*, or the companion girl, and other females. *Kanjikalam* will carry with her, a new earthen pot containing half a seer of rice and a cocoanut, in which will be kept 4 plantain-leaf packets, one containing gold and flower, another containing rice and flower, the third containing charcoal (കരിങ്കല്ല്) and the fourth containing turmeric (മഞ്ഞുവെള്ള). The mouth of the pot will be covered with plantain leaf.

(6) All of them will go round the pandal three times and enter the pandal. The girl takes her seat on the prepared plank kept over the heap of rice. The earthen pot is kept on the east to the left, and the *thâlapoli* is kept on in the right side of the girl. The girl is then sprinkled over with rice. The barber woman takes three betel leaves, and tears them away, before the face of the girl. After this the uncle, or father, of the girl takes the *Thali* from the hands of the astrologer to whom it will be given beforehand. The astrologer will have it in a plantain leaf with some rice in it and will be repeating some *Mantrams* over it. The *Thâli* is taken from him after giving him betel and nuts, and is given to the barber woman who calls out three times to the astrologer asking him whether the auspicious moment to tie *Thâli* is come. On his replying in the affirmative, the barber woman ties the *Thâli* round the neck of the girl. Now-a-days, the duty of tying *Thâli* is taken up by some female relations of the girl, but not the mother. If the girl is *affianced*, *Thâli* will be tied by the sister or the other female relations of the bridegroom, in which case the *Thali* will have to be provided by the bridegroom's people.

(7) After tying *Thâli*, all the female relations sprinkle rice over the girl by way of blessing her. She then gets up and all the female relations dress the girl with pairs of new cloths brought by them for the occasion as presents. These cloths are called *Mantra kodi* (മന്ത്രകുടി.) Best friends of the girl's family are also allowed to bring new cloths and dress the girl. By right the father is to tie the first pair of new cloths, which will be tied by his sister or other near relations. Then the uncle's which is tied by his wife. If the girl is *affianced* the bridegroom's people should tie it first of all. After tying all the *Manthrakodis*, the girl takes her seat. Superfluous cloths will be removed.

(8) The barber woman keeps in a sieve or *muram* (മുരം) in front of the girl three green plantains, each in a betel leaf, over which a lighted wick will be kept. The girl cuts these plantains into pieces and keeping her hand in crossways she shoves away the sieve with its contents. There will be four unhusked cocoanuts, kept in the four corners of the Pandal which the barber woman takes and keeps before the girl, who touches them with her hands and then touches her forehead by way of respect. After this, she is made to act in imitation of all sorts of domestic duties, such as, cooking rice for which an earthenpot and a ladle are put before her; grinding curry-stuff for which a grinding stone-roller will be provided, &c. &c. After this, the girl is taken to a plantain tree with its bunch which will be tied to the pillar on the South-east corner of the Pandal. She cuts the plantain bunch after putting rice on it, and touching it, and touching her forehead by way of respect. She is then taken to her seat and sprinkled over with rice. In front of her a brass-dish with some rice in it will be kept, in which all the female

relations put money, which forms part of the perquisites of the barber woman. After this *Kanjikkalam* under a canopy of red cloth, or silk, goes to the north-east corner of the Pandal and outside of it, with the earthen pot containing the packets and accompanied by 7 or more of females in odd numbers with lit up lamp and *Niranâzhi*. This is called going to a jasmine plant. There the barber woman plants a knife on the ground in front of which three betel leaves are kept with a lighted wick in each of them. *Kanjikkalam* pours water around it, &c. sprinkles rice over it, and touches it and touches her forehead by way of respecting it. She is then asked to look up to see the gold, and the sun is pointed to her. Afterwards the knife is pulled out and all return to the Pandal with the covered earthen pot containing the packets of gold, rice &c. The earthen pot is kept in front of the *Kalyânakutti*.

(9) The next thing is to try the luck of the girl with the packets in the earthen pot. *Kalyânakutti* makes a hole in the cover of the earthen pot, dips her hand into it and takes a packet, the contents of which are examined. If the girl takes out one containing gold and flower, or, rice and flower, she has a happy and prosperous life before her. The packet containing charcoal, or turmeric, is considered to be unlucky, and if it is taken, the girl is made to try another chance. The girl is then sprinkled over with rice and taken to a cocoanut tree accompanied by females in odd numbers with lamp and *Niranâzhi*. The girl goes round the cocoanut tree (accompanied by females) three times, pours water at its foot and touches it and her forehead by way of respect. She then goes to a jack tree where the same formalities are gone through. After this, the girl is taken directly to the house where she is served with sweet things. Of the new cloths received, some are sent to near female relations the next day. Those who receive them feed the bearers and make presents of money &c. Thus ends the *Thâli kettu* ceremony.

12. Amongst Tiyars, it is the custom for the local caste barber women to tie *Thâli*. She is not known by any particular name.

13. It is the custom for a number of girls to have their *Thâli* tied at the same time and place by one and the same person.

14. Amongst Tiyars, *Thâli* is tied by a female and therefore no answer is required as far as Tiyars are concerned. I do not know what is the custom prevalent amongst Nayars.

15. As far as Tiyars are concerned this question does not require an answer.

16. Ditto.

17. Ditto.

18. No *Thâli* is tied on by the girl's mother.

19. Every girl must undergo *Thâlikettu* ceremony before reaching the age of puberty. There is nothing but custom to be pleaded in justification of this.

20. Amongst Tiyars, there is the marriage ceremony to go through, before the girl is allowed to consort with a man. Amongst Nayars there is the formality of a *Pudamuri* (പുടമുരി,) the ceremonies of which are very few. As other competent persons will give a description of the ceremonies attending a *Pudamuri*, I confine my description to the marriage ceremony prevailing amongst Tiyars which is as follows:—

It is always customary for a man to find out a woman for him. The duty of selecting a girl rests with his male relations. If a suitable girl is found, either the father or the uncle of the bridegroom, accompanied by a friend, goes to the girl's house, and moots the subject to the girl's father, or guardian. The girl's party asks for a few day's time to give a decided answer, and a day is fixed for that purpose. In the meanwhile, the girl's party makes enquires about the bridegroom, and consults their relations, friends, and neighbours about the proposal. On the day named the bridegroom's party goes to the bride's house. If the answer is favourable, they take their meals there and go away, after fixing a day for fixing the day on which the marriage ceremony is to be celebrated. On that day the father, or uncle, of the bridegroom, or both, accompanied by some friends, one of whom will be a *nadukâran* (നടക്കാരൻ) or mediator. They bring a *kanisan* (astrologer) with them, and also some bundles of betel &c. The horoscopes of both the bride and the bridegroom will be examined by the astrologer, in the presence of persons from both sides. If the proposed connection is found to be suitable, an auspicious day will be fixed, and both the horoscopes are tied together. The *Kanisan* is then paid and sent away. Then the middle room is prepared with lit-up lamp and *niranâzhi*. There will also be kept some sweet things in a plantain leaf. Two planks will be kept there representing the bride and bridegroom. Rice is sprinkled over the lamp, and planks, by all those present. The uncle of the girl takes his position behind the planks, and the *nadukâran* after repeating the following sentence “കാരണപരമാരോടും ചങ്ങാതിമാരോടും ചോരിച്ചിട്ട് (mentioning the Illam) ഇല്ലത്തെ തീയ്യത്തിക്കു (mentioning the Illam) ഇല്ലത്തെ തീയ്യൻ നാലാൽ ഒരു പരിയം ചെയ്യുന്നു” and then gives $11\frac{1}{4}$ or 21 fanams to the uncle of the bride. He accepts it. The meaning of the above sentence in Malayalam is “after obtaining permission of the Kâranavars and friends, the Tiyân of——Illam marries the Tiyathi of——Illam with one of the four things.” The four things are, I presume, Panam (money), Pudava (cloth), oil and rice. Here one of them is the Panam (money) of $11\frac{1}{4}$ or 21 fanams paid to the uncle of the bride. After this is over, food will be served. Afterwards the bridegroom's party leaves the house taking the horoscopes with them. Before leaving, the bridegroom's party will fix the number of people to be expected with the bridegroom on the marriage day. If the number 50 is given, the bride's party is to expect a number not more than 100. If the number is 100, a number not exceeding 200 should be expected.

(2) On the day fixed for the marriage, all the friends and relations of the bridegroom are invited to his house. On their arrival, the middle room is prepared with a lit-up lamp and *niranâzhi*. The bridegroom enters it, with his best man, and they take their seats on the planks provided for the purpose, on the left side of the lamp, best man sitting on the right side of the bridegroom. Sprinkling of rice by way of blessing the bridegroom by all the relations, both male and female, then takes place. Some of them more closely connected make presents of money to the bridegroom according to their ability. Then all of them start for the bride's house with the bridegroom. No food is usually given at the bridegroom's house. After their arrival at the bride's house, water will be given in a *kindi* to the bridegroom and his best man, who wash their legs with it. The middle room is prepared with lamp and *niranâzhi*. The bridegroom enters the room, with his best man, and takes his seat, the best man taking his seat on the right side. The bride is then brought to the room, and made to take her seat on the left side of the bridegroom. Sprinkling of rice by all the male and female relations of the bride and the bridegroom then takes place. The bride is conducted to the seat by the wife of the

uncle. After this the girl will be dressed in a piece of new cloth called (ഉടുക്കുന്ന പട്ട) to be brought by the married sister of the bridegroom. A pair of new cloths called (വെക്കുന്ന പട്ട) should be brought by another married sister of the bridegroom, if he has any, or else it must be purchased by the father, or uncle, of the bridegroom. This *pudava* will be left on the cloth-line in the room to which the bride's close relations have a claim. After the sprinkling of rice, the uncle of the bride takes his position in the rear of the bride and the bridegroom, and the *Nadukâran* of the bridegroom's party stands in the front. The latter then repeats the following sentence “കാരണവരാരോടും ചങ്ങാതികളോടും ചോദിച്ചിട്ടു—ഇല്ലത്തേ തിയ്യത്തിക്കു—ഇല്ലത്തേ തിയ്യൻ നാലിരട്ട രണ്ടു പരിയം ചെയ്യുന്നു” the meaning of which is “after getting permission of the Kâranavars and friends, the Tiyan of—Illam (lineage) marries the Tiyathi of—Illam with two of the four things”. Here the two things are money and cloth. The *Nadukâran* then hands over 42 fanams, which is called *Kânapanam* (mortgage money) in a piece of cloth to the uncle of the bride, and the uncle of the bride takes the money, saying, “കുറേപണം വാങ്ങുന്നു”, the meaning of which is that he accepts the *Kânapanam*. After this, rice is again sprinkled and the bridegroom goes out with his bestman, and the girl is taken out from the middle room by the sister of the bridegroom. Afterwards all the guests assembled are fed sumptuously. After meals, the bride and the bridegroom are seated again in the middle room and sprinkled over with rice. The wedding party will then leave the place, taking with them the bride, who is conducted out of the house by the sister of the bridegroom. Some females, generally two, from the bride's house, will go with the bride, who will return on the very day after taking meals. On arrival at the bridegroom's house, water is poured over the feet of the bride and the bridegroom, by the sister of the bridegroom, before entering the house. The bride and the bridegroom with the bestman will be conducted to the middle room which will be prepared with lamp and *niranâzhi*. They take their seats, the best man on the right, and the bride on the left, of the bridegroom. Sprinkling of rice by all the male and female relations takes place here too. The ceremony is over. The bride and bridegroom stop that night in the bridegroom's house. The next day they go to the bride's house, and stop there for the night. The next day after meals they return. Afterwards the married couple are invited for dinner called *Salkâram* (സല്ക്കാരം) by their close relations on both side. The first *Salkâram* must be that of the uncle.

(3.) There are two forms of marriage. In one form the *Kânapanam* is only 42 fanams. In the other form of marriage in addition to the *Kânapanam* (which will be only $11\frac{1}{4}$ fanams) given by the *nadukâran* as described in the above para, an amount, equal to two fanams per head, for all the persons, both male and female, who accompanied the bridegroom and took meals at the bride's house, is also given. This amount is given after meals. The ceremonies are the same in both forms of marriage. There is a difference in the after consequences of these two forms of marriage. If one marries on a *Kânam* of 42 fanams, the husband has to incur all the expenses relating to the ceremonies of first menstruation, and first pregnancy, of the wife. In the other case, the wife's people will have to incur these expenses, and if the girl is with the husband while the first menstruation takes place, the girl's people will have to bring all the necessary things with them and perform the ceremony, but now-a-days they bring only money with them. So also for the first pregnancy ceremony. The first form of marriage has a touch of the custom of Makkathâyam about it. There is also another difference. In the case

of 42 fanams' marriage, nothing is to be paid by persons invited for the ceremony by the bridegroom. But in the other case all the persons invited by the bridegroom will have to pay two fanams each to the bridegroom, whose people collect the money, and pay it to the bride's people. This collection is done at the bridegroom's house before starting, and if the whole is not collected from there it is done also at the bride's before meals. These payments are recorded on a cadjan leaf with the name of the person and the amount paid. According to closeness of relationship, and friendship, large amount may be given, but none can pay a sum less than two fanams each. The payment of these fanams are recorded with a view of repayment which is to be made on the occasion of marriage or other ceremonies, taking place in the house of any of those persons who now pay.

21. I am not in a position to answer this question.

22. Amongst Tiyars, the formalities of a marriage necessarily differ on many points between North and South Malabar, because, the Tiyars of North Malabar follow *Marumakkathâyam* and those of South Malabar follow *Makkathâyam*.

With the exception of trifling variations, the formalities are almost the same throughout North Malabar.

In the South Malabar too different localities are known to have different formalities.

23. In North Malabar a Tiyar woman cannot have Sambandham with as many men as she pleases at the same time. A Nayar woman too cannot have such Sambandham. In South Malabar, especially in Ponnani, Ernad and Walluvanad Taluks, there were instances of Nayar women having as many Sambandhakâr as they please at the same time. Amongst Tiyars in South Malabar it is usual for a single brother to marry a girl for all the brothers in the family. But this custom is dying out as the people grow in civilization. Amongst Nayars too the custom of having many Sambandhakâr is dying out.

24. Amongst Tiyars it is only the custom that prohibits a woman from having Sambandham with many men.

25. If a woman wishes to terminate a Sambandham she can do so.

26. The formalities necessary to dissolve a Sambandham are simple and few. Among Tiyars, the *Nadukâran*, who effected the marriage, will have to go to the woman's house and say that âchâram (divorce) is given. Even if this is not done, it is sufficient if the husband does not go to the wife's house during the next Onam and Vishu holidays that may come after the wife is sent away to her own house. This omission on the part of the husband is considered to be sufficient ground for the wife's people to give her in marriage to another man, if they are so willed. If a female wishes to dissolve her sambandham it is not so easy a matter as in the case of husband. She will have to show sufficient grounds to satisfy her relations. Adultery on the part of the husband, and even taking another woman as his mistress, if pleaded by her, are not taken notice of by her relations, as long as she is supported by the husband. But in the case of a woman, very trifling causes are sufficient for the husband to drive her away. It is therefore that I consider it desirable that a law should be introduced to recognize marriage among Hindus who follow *Marumakkathâyam*.

I may be allowed to state here that although the dissolution of a sambandham is so easy an affair, yet it is very seldom that such dissolution takes place amongst Tiyars. After man and woman are made husband and wife, they live so till the one or the other dies, and enjoy all the happiness and pleasures of a wedded life.

27 and 28. A man can have sambandham in more than one house at the same time, and there is nothing to prevent it. But the formalities of a second sambandham are very few, and the wife stands in the position of a mistress. She will not be taken to her husband's house, where there is a legal wife, but kept in her own house.

29 and 30. Amongst Tiyars and North Malabar Nayars, the woman sleeps and takes her meals in her husband's house. In South Malabar among Nayars, the woman as a rule lives in her own tarawâd house. •

31. It is the recognized custom in North Malabar, that the husband should support the woman and her children during the Sambandham.

32. It is the rule for one man and one woman to cleave together for life.

33. If a woman lives with her Sambandhakkâran in his house, and bears him children, he does feed and clothe them. If it is an undivided tarawâd house, they are fed out of the income of the tarawâd property.

34. If Anandiravar work for tarawâd no allowance is made to them by the kâranavan. Anandiravar often cultivate tarawâd land for rent, and in such cases they are permitted to deal with the surplus, if any, at their pleasure.

35. Anandiravar do not generally work for tarawâd. They try to earn something for themselves, and for their near relations, such as, direct sister and her children.

36. If the wife and children of an Anandiravan live in the common tarawâd house, they are supported out of income of the tarawâd property. If the Anandiravan is an earning man he generally gives something to the Kâranavan for the support of his wife and children.

37. There is no such thing as പുത്രാവകാശം (Puthrâvakâsam) recognized in North Malabar. But whatever is given by the father during his lifetime, out of his own earnings, is allowed to be enjoyed by the wife and children. Property so given is always known as that obtained as *Puthrâvakâsam*. I do not know any practice analogous to it in South Malabar.

38. There is no objection to providing a permissive law for Nayars. I wish to provide such a law also for the Marumakkathâyam Tiyars of North Malabar. Although the marriage among them is as formal as could be wished, the abandoning of a wife is easier than for one to divest himself of the dress he has on. This is very deplorable.

39. I would like to retain the customary form of marriage as far as Tiyars are concerned, and make registration evidence of its legal recognition. Registration must be made as little inconvenient to the parties as is possible.

40. The Sambandham recognized in practice differ from all the conditions of a valid marriage given in the margin of question 40, except condition No. 4, and also portion of condition No. 1 as far as it relates to the woman, who cannot have a husband living at the time of marriage. With reference to proviso 2 it is pro-

hibited amongst Tiyaars for a man and a woman to marry if they are known to belong to the same Illam (lineage) however estranged they might be, and no relationship of any kind could be traced between them. There are only 8 Illams, namely, (1) Thenankudi, (2) Padenkudi, (3) Nellikai, (4) Manankudi (5) Payampayi (6) Ban—(7) Bangaleri and (8) Kannankudi. Whenever a proposal of marriage is made, enquires about the Illam are at once made and ascertained. However desirable a match may be if the Illam is the same, the proposal will simply be rejected. Each family is expected to know its own Illam.

41. I have no conditions to add to, or omit from, those given in the margin of question No. 40.

42. Adultery, ill-treatment and neglect to support, are considered to be reasonable grounds for dissolving a sambandham according to local usage.

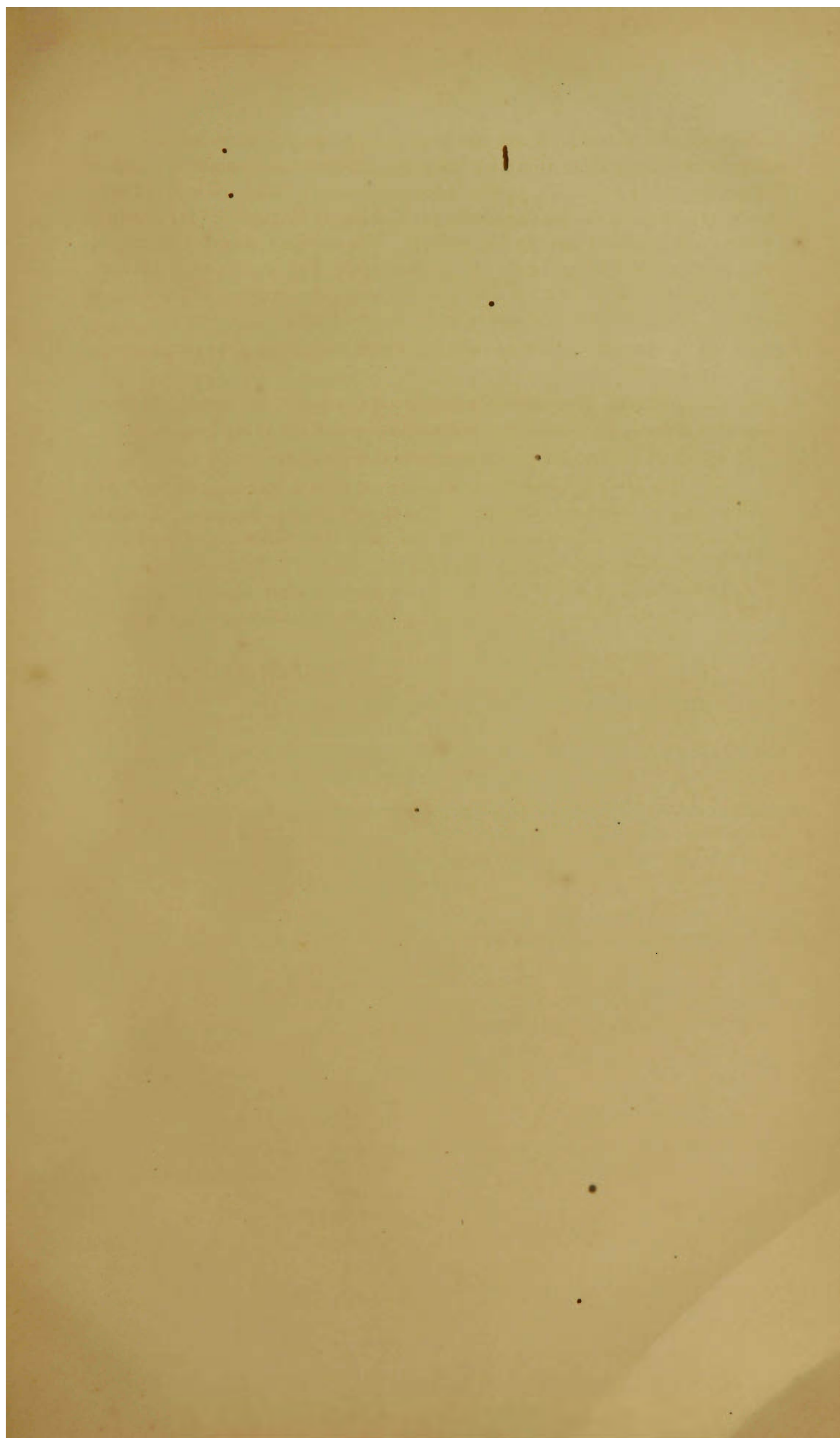
43. I do not feel competent to answer this question.

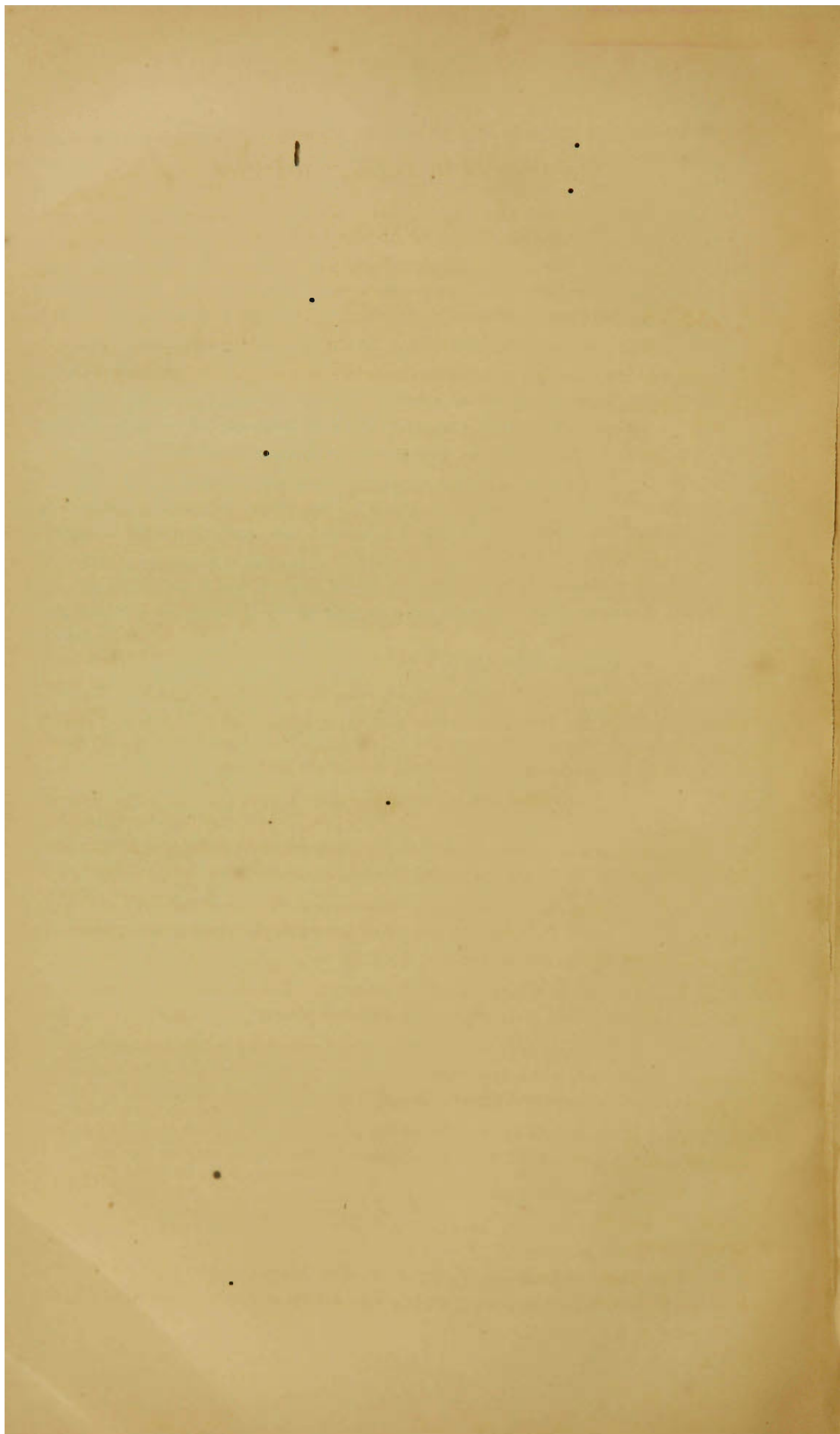
44. The new rights proposed to be derived from a marriage as described in the margin of question 44 are good. The term "sufficient provision" in clause (a) requires explanation and some restrictions, and also "self acquired property".

45. I am not in a position to answer this question satisfactorily.

In conclusion, I beg to state that all my answers relate mostly to questions which relate to the affairs of Tiyaars following the *Marumakkathayam* law in North Malabar.

ONDEN RAMAN,
Sheristadar,
 CHIRAKKAL TALUK.





Answers to Interrogatories

BY

M. R. RY. C. KANNAN NAYAR AVARGAL,
Pleader, PALGHAT.

1. Sambandham is allowed.
2. No.
3. In the following cases inter-sambandham is altogether forbidden :—
Between :—

- (1) Chârnavan and Sûdran.
 - (2) Athikkurissi, Pallichchân, Vattékâtt and Anthûran.
 - (3) Akathu Chârnathu and Purathu Chârnathu.
 - (4) Several divisions of the Sudras themselves.
4. They will be excommunicated and will not again be admitted in society.
 5. Re-admission to society cannot be effected by any prâyaschittam.
 6. Korapuzha river.
 7. They do.
 8. They can.

9 and 10. They do not take their women South of the Korapuzha. I do not know the real cause. It is said that the custom is brought about by the animosity that existed in former days between the native Rajas North and South of that river. The cause no longer exists, and the effects should not continue.

11. Tâli kettu kalyânam is a ceremony that is calculated to bring disgrace on Nayars and work ruin to their property. It is said to have been introduced by men of other castes who were self-willed and tyrannical. The abolition of this ceremony will conduce to the welfare of the Nayars.

12. The general practice among Nayars is to get one of the girl's own parisha to tie the tâli. He who ties the tali is known by the name of manavâlan. In rare cases Nedungâdis are engaged for tying the tali.

13. In cases in which Nedugâdis are engaged as abovesaid it is usual to tie the tâlis to a number of girls at the same time and place.

14. No, he does not; for, any one without regard to his age, position or qualification is chosen to tie the tali which is removed on the 28th day. The Manavâlan does not therefore acquire a right to become the girl's Sambanthakkaran.

15. If, as regards the age &c. of the Manavâlan and of the girl, they as well as their kinsfolk agree, the usual Sambandham between them may be formed.

16. Yes; for instance one * * * * * of Cochin tied the tali for a girl of * * * * *. Subsequently a Sambandham was formed between them.

17. There is pollution if the Manavâlan happens to be a person selected from the girl's own parisha (caste people). This custom is observed among all Nayars.

18. Tālikettu must be performed before attainment of puberty, or the girl would be excommunicated. I do not know that there is anything but custom to be pleaded in justification of this.

20. When the bride's and the bridegroom's Tarawads arrange the sambandham, two Dēsakars (men of the locality) are sent to the bride's house where they are fed sumptuously. On the day fixed for Sambandham the bridegroom, with his relations and Dēsakar, goes to the bride's house where they are feasted. Thambūlam (betel-leaf, nut &c.) is distributed among those present. They then return early the next morning.

21. In some places the same formalities are observed and in others not.

22. I do not know.

23. It is not permitted; but in some localities this brutal custom is shamelessly followed, I hear.

24. It is not warranted by any recognized principles. It is indulged in the fashion of brutes.

25. She can.

26. It is said, in former days 2 fanams were given when Sambandham was dissolved. Nothing of the kind takes place now.

27. Some persons do it against all propriety.

28. There is nothing to prevent it except moral law and propriety.

29. As a rule she resides in her own house, but sometimes goes and lives in her husband's.

30. I do not know.

31. All except meals, which she takes in her own house.

32. It is not the custom to change the Sambandham frequently. There are some unprincipled men who do it. There are others more honorable who cleave together for life.

33. He does, but it is not compulsory.

34. Anandaravars do generally cultivate Tarawad land for rent and appropriate the profits to themselves. They do not make over the profits to the Tarawad nor does the karanavan grant any allowance.

35. Both cases exist, but the practice of working for themselves is more general.

36. They don't hand over their earnings to the karanavan.

37. I don't know.

38. It is not only unobjectionable, but is very necessary. If the Hon'ble Mr. Sankaran Nayar's bill be passed with some modifications it will be beneficial.

39. A law which provides that the Marriage should be registered, or solemnized, before a Registrar, will not be quite acceptable to the people. Providing for divorce through the Courts of Law would equally be distasteful. Nowhere in India, is Registrar and registration had recourse to at Marriages; and it is undesirable

that the people of Malabar, small in number as they are, should have such a legislation. It is enough if the Marriage is registered by Apsam Officials the day after it takes place, and sent to the Taluk as they do the Birth and Death Register.

40. Both the bridegroom and the bride should be Marumakkathâyakar, and neither of them should belong to castes between which inter-sambandham is prohibited.

Conditions 1 to 3 are not among the ordinances that constitute the present Sambandham and should be introduced. The 4th condition is at present observed.

41.

42. Dissolution is made at will and not on any principle.

43. Husbands meet all the requirements of the wives except meals. Some make no exceptions and even make gifts of property.

44. I am for (a) (b) (c) and (e).

(d) It is unfair to let the whole property go to the survivor and children of the deceased, and to leave nothing for his own thâvazhi (mother and sisters) and for the Tarawad. A legislation to the effect that $\frac{1}{3}$ of the property is to devolve on the deceased's own thâvazhi; $\frac{1}{3}$ to the Tarawad, and $\frac{1}{3}$ to the survivor and children would be beneficial.

Resolutions to this effect were passed at the several meetings held in Palghat in connection with the marriage bill.

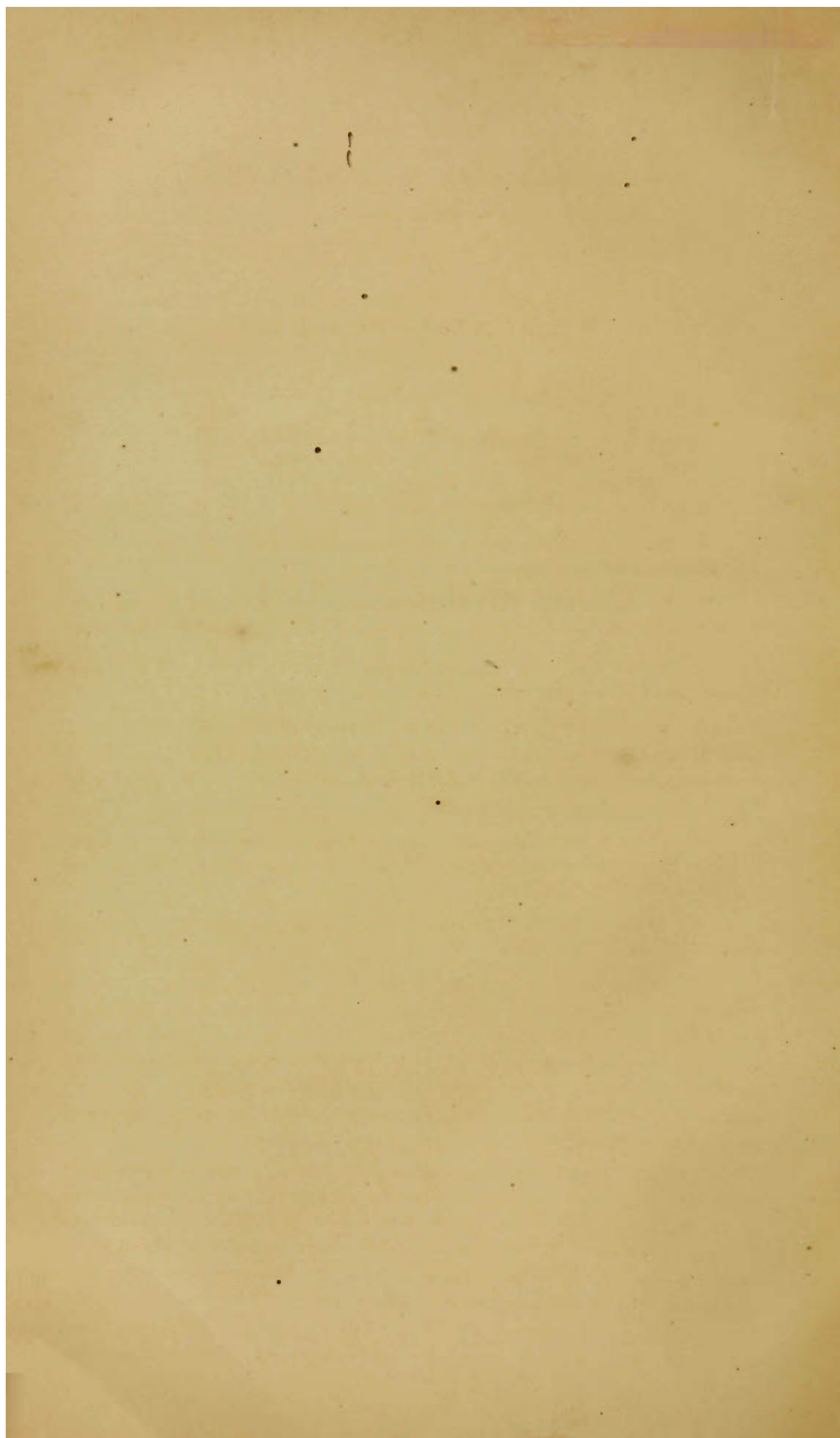
45. I think it is.

(Signed.) C. KANNAN NAYAR.

(True translation as near as may be,

H. M. WINTERBOTHAM.)

ANSWERS TO INTERROGATORIES
BY
M. R. RY. AMBU NAIR AVARGAL,
Sub-Registrar,
OF PONNANI.



MARUMAKKATHĀYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. AMBU NAIR AVARGAL,
SUB-REGISTRAR,
OF PONNANI.

1. A man of higher division of Nayar can have Sambandham (സംബന്ധം) with a woman of lower division.

2. A woman is not allowed the same liberty.

3. Sambandham of a man of lower caste with a woman of higher caste is altogether forbidden.

4. Females who form Sambandham with men prohibited by caste are turned out of tarawād, and are outcasted, and are refused maintenance from tarawād.

5. No prāyaschitham is known among Nayar castes which will validate a Sambandham between prohibited persons.

6. Korapuzha (കൊരപ്പുഴ) river is the recognized boundary. Nayars of North Malabar form Sambandham with females of South Malabar, if the male is of allowable caste, but Nayars of South Malabar do not form Sambandham with Nayar females of North Malabar.

8. There is no valid reason why such marriages should be prohibited. People of North Malabar superstitiously stick to the old custom in not allowing their females to cross Korapuzha.

9. There is no valid objection, but, as a rule, they are not allowed by caste rules to cross Korapuzha.

10. There was some reason in ancient times when the South and North Malabar were ruled by rival native Rajahs. They were always at war, and there was no guarantee for protection to the subjects of rival chiefs. Though they are not now the rulers, they are even now considered heads of the caste system, and the Sambandhakāran (സംബന്ധക്കാരൻ) not being the recognized guardian of his wife, cannot take her to the South of Korapuzha without the consent of the Kāranavan of her tarawād.

11. Tāli kettu Kalyānam is a ceremony to take place before the girls attain maturity, and is considered among Nayars, to be the formal marriage of girls. The details of the ceremony are different in different parts of Malabar among different divisions of Nayars. All the girls of a Malabar Nayar tarawād are placed on an auspicious day, selected by the astrologers, in the principal room of the house after they are purified by Kalasam (കലശം). Each girl should have an arrow (ശരം) a Cheppu (ചെപ്പു) and a brazen plate called (പാച്ചു, ന്നാടി) in her hand. They should be attended by a female of Nambiassan caste called brāhmani or

pushpôthi. On each day this female recites some sacred songs in the presence of the girls, and on the fourth day a *tâli* (താലി) is tied by a man of the same caste as the girl or by one of higher caste such as Nambudris (നമ്പൂതിരി) Kshatriyas (ക്ഷത്രിയർ), Elayath (എളയ്ക്ക) Tirumulpâd (തിരുമുല്പാട) and Nedungâdi (നെടുങ്ങാടി) and also men of Kiriya caste (കിരിയത്തിൽനായന്മാർ). In cases where the *tâli* is tied by the girl's caste man, he stops with the girl and accompanies her to the temple and after returning, the girl takes food in the leaf in which the man who tied her *tâli* took his meals. He then leaves the house. If the man is of higher caste as described above, he leaves the house as soon as the *tâli* is placed on the neck.

12. A man, as described above, ties the *tâli*, and he is called *manavâlan* if he belongs to the same caste as the girl.

13. As a rule, in cases where the *tâli* is tied by a man who is equal in caste to the girl, each girl should have a separate *manavâlan*. Where the *tâli* is tied by a Brahman or Kshatriya, he ties the *tâli*, at the same time, for all the girls in a house set apart to undergo the ceremony.

14. He obtains no right to cohabit with the girl merely because he ties the *tâli*. But there is no special prohibition from his doing so if he is declared a sambandhakkâran.

15. There is no prohibition to his forming Sambandham with the girl if the parties agree.

16. No instance of such a Sambandham is known to me.

17. In some cases, pollution is observed by the girls in South Malabar; Kiriya Nayar, Sudras, Vattékâtt (വട്ടെക്കാട്ട്), Pallichân, (പള്ളി ചാൻ), and such other castes, where the *Tâli* is tied by their own caste men, observe pollution.

18. Mother, or any other female never ties *tâli*.

19. Every girl must undergo *tâlikettu* ceremony before puberty. This is one of the *Âchârams* (ആചാരം) recognized in Malabar.

20. Some ceremonies, next in importance to *Tâlikettu* should be observed on the occasion of *Sambandham*. If a man proposes to form *Sambandham* with a girl, the consent of the *Kâranavan* and father of the girl, and also that of the *Kâranavan* and father of the man (bridegroom) should be obtained, if the *horoscopes* (ജാതകം) of the man and girl agree. A socially respectable man is sent to the house of the girl to fix the day of *sambandham*. In the evening of the appointed day, bridegroom, accompanied by his friends and attended by *Mârân* and *Veluthêdan* (washerman) proceeds to the girl's house with bundles of betel and areca nuts &c, and respectfully gives betel to the *Kâranavans* of the girls, and distributes money (*dânam* and *dakshina*) to Brahmans assembled. Bridegroom with his friends, and all assembled there are then feasted richly at the expense of the girl's *tarawâd*. After meals, the bridegroom retires to the bedchamber, and the girl is conducted to the room by the matron of the house. This ceremony is, in north Malabar, called *Pudamuri* (പുടമുറി) *Oovampurakal* (ഊവ്വ പൂർക്കൽ) and *Vîdâramkâral* (വിടരങ്കാരൽ), and in South Malabar it goes by the names of *Sambandham Kûdal* (സംബന്ധ കൂടൽ) and *Kidakkakayarâl* (കിടക്കകയറൽ).

21. No formalities as described above, are observed on a Nambudri or Puttar forming sambandham with a Nayar girl. But the consent of the girl's tarawâd is absolutely necessary.

22. There is some difference in the details of Sambandham in North and South Malabar. In North Malabar, in addition to the ceremonies described in the answer of question 20, some clothes and money are given to the girl on the night of Sambandham, and the girl is taken on the next day to the Sambandhakâran's house. This form of Sambandham is called *Pudamuri*. According to the other forms of Sambandham observed in North Malabar (*Ûvam-porukkal* and *Vîdâram-kayarai*) the bridegroom on the night of Sambandham gives some money to the girl, and the girl is left in her own house till she is formally taken to the husband's house. The Sambandham in South Malabar is the same as described in the answer to 20, but the girl is taken to the husband's house by the females of the husband some days after Sambandham, and she visits the husband's house only as a sojourner. The wife in South Malabar, as a rule, lives in her own house, while in North Malabar she lives in her husband's house.

23. A woman cannot have Sambandham with more than one man at a time.

24. More Sambandhakâran than one is, as a rule, prohibited in Malabar, but the rule is more strictly observed in North Malabar.

25. A woman is at liberty to terminate Sambandham when she pleases.

26. No formality is necessary for the dissolution of Sambandham.

27. A man can have more than one Sambandham at a time.

28. There is nothing to prevent it now.

29. In North Malabar, the wife lives at the husband's house, and in South Malabar, as a rule, in her own house.

30. Vide answer to 29th question.

31. The wife and children are supported by the husband during their stay at the husband's house.

32. Changing of Sambandham is comparatively frequent; but the rule is that one man and one woman are to cleave together for life.

33. Sambandhakâran feeds and clothes his wife and children if they live with him in his house.

34. If Anandaravars work for the tarawâd, their whole expense including that of wife and children, is borne by the tarawâd. They often cultivate the tarawâd lands for rent, and the surplus in such cases is entirely at their disposal.

35. With rare exceptions, Anandaravars generally try to earn something for themselves.

36. Their expenses and those of their wife and children are met by their earnings, and the surplus, if any, remains as their self-acquisition.

37. In North Malabar, among Nayars, when a man dies, a reasonable sum of money is given to the eldest son for Pulakuli, (pollution ceremonies) and some

house-hold furniture called Kattathānam (കട്ടത്താണം) is sent to the widow. In some cases documents relating to immoveable property are executed in favour of sons as *putrāvākāsam* (പുത്രാവകാശം). In South Malabar, a sum of money alone is given to the sons *after a man's death*.

38. There is no objection to providing a permissive law of marriage for Nayers.

39. I would prefer to retain the customary form and make its registration the evidence of its legal recognition.

The difference is as follows :—

40. (1) A man may have a wife when forming a Sambandham, but a woman should not have a husband at the time of marriage.

(2) The girl, according to the present custom, need not complete fourteen years in case she has undergone the tāli kettu ceremony.

(3) According to the present custom, sanction of the Kāranavans of the male as well as of the female, should be obtained before Sambandham is formed. Their age is not taken into consideration. A woman, however old she may be, has no option to form a Sambandham, except with the consent of her Kāranavan or father; but the man if he can manage without the help of his tarawād may have his own way.

(4) Not only custom relating to consanguinity or affinity is now considered the only criterion in forming a Sambandham, but a strict regard to the caste (caste should be equal or higher of the man especially) is also taken to be an important factor in the formation of Sambandham.

41. (a) When one marries another of a prohibited caste, he or she should be declared to have no claim over the tarawād property. Otherwise, a Nayar lady married by Tiyan or any pollutor caste man will have a right to enter the tarawād, and claim maintenance from it, and her children will have a right to become the Kāranavan of her tarawād, and this will be detrimental to the social happiness of the Malabar tarawāds.

(b) One should be allowed to marry again, during the life time of one's wife or husband, as the case may be, if the wife or husband should suffer from any incurable or contagious disease, or when she or he is insane, or becomes a convert to another religion. In such cases, men should be allowed to marry a second time without affecting a divorce.

42. Adultery, and habitual disobedience to husbands, are considered reasonable grounds for divorce.

43. In North Malabar, wife and children are generally maintained by the husbands for life, while in South Malabar they are maintained at the expense of their tarawād.

44. (a) The provisions contained in (a) are approved of by me.

(b) As regards (b), the wife and children shall retain their rights as members of their tarawād, but shall not have a right to demand maintenance from the tarawād as long as they live with their husbands, and they should be entitled

to maintenance from their tarawâd during their stay at tarawâd house, even during the life-time of the husband.

(c) There is nothing to be changed in (c) in my humble opinion.

(d) In case a husband dies intestate, his self-acquired property should be equally divided among his uterine brothers, sisters, and wife and children. In case of wife, her self-acquired property should go to her children, and failing these, to their tarawâds.

(e) In making wills, men should have full liberty to dispose of his self-acquired property, as he pleases. There should be no provision restricting the power of a man in dealing with his self-acquired property.

(f) I approve of the terms of (f).

45. Nayars of British Malabar make Sambandham with those in Cochin State.

E. AMBU NAIR,
Sub-Registrar of Ponnani.

From

E. Ambu Nair,
Sub-Registrar of Ponnani.

To

H. M. Winterbotham Esq., c. s.

SIR,

With reference to your Memorandum dated 8th April 1891, I have the honor to submit my humble opinion regarding the proposed Marriage Bill affecting the Hindus following Marumakkathâyam Law.

2. I agree with the main principles of the bill introduced by the Honorable C. Sankaran Nair, and in my humble view, it is of important necessity that a permissive law enabling Hindus under Marumakkathâyam law, to contract a legal marriage, should be passed, and that they should be given the power of disposing of their self-acquired property by Will.

3. Since the introduction of the Bill, criticisms of various nature found place in the leading newspapers, and one of the opponents went so far as to publish a pamphlet decrying the bill bodily; while Mr. Othêna Menon published an able pamphlet urging the importance of the bill being passed. I, a native of North Malabar was painfully obliged to dissent from those of the North Malayalis, who maintained their opposition, on the ground that they already followed a fixed form of marriage. It may be true that the Malayalis have some form of conjugal connection, but it is not founded on any fixed principle, nor does it deserve to be called a marriage among any civilized nation, as such connection is neither religious nor binding on, the parties. What the educated Malayalis now desire, is that they should have a form of marriage which the Law will recognize. The Madras High Court has more than once declared that the present matrimonial relation among Malayalis is merely a concubinage. It cannot be recognized by law as it is dissolvable at the will of the husband or wife. The offspring of such connection has no claim to inherit the property. Even in this advanced age of civilization, the dissolution of marriages at the will of husband or wife or their relatives, is very common in Malabar, as there is no law at present condemning such wantonness, nor is a husband legally bound to maintain his wife and children. According to natural law a man is bound to help those whom he calls into existence till they can take care of themselves. It pains me to say that even this law is not applicable to Marumakkathâyam population. Although we are under the blessed British Government, our children, (never mind legitimate or illegitimate) cannot claim maintenance from their father in a Civil or Criminal Court, nor are we at liberty to contract a legal marriage. Chapter 36 of the Criminal Procedure, relating to maintenance of wife and children, and Chapter 20 of the Indian Penal Code regarding offences relating to marriage, are declared as not applicable to us.

4. We cannot at present sue for adultery, nor complain against a man who seduces our wife, though, in fact, we maintain our wife and children at our house. Besides, supposing we set apart all our earnings for the use of our wife and children we are not in a better position, since we were born of Marumakkathâyam parents.

5. Though we are called Hindus, none of the provisions of Hindu Law are now applicable to us. When we will away our property, the Hindu Law is levelled against us, and we are debarred from writing wills. It is very strange that this mischievous portion of the Hindu Law is held applicable to us, while all its beneficial provisions are kept aloof from us. If the power of disposing of our self-acquired property by wills be granted to us, Malabar will in course, rise in prosperity and independence. The acquisitions of a Junior member of a tarawâd now goes, not to speak of his children, to the Kâranavan of the tarawâd. According to the practice now prevalent, the wife and children are turned out from his house as soon as a man dies, and before his corpse is taken to the burial ground. His Junior Anandaravans perform his obsequies, while the Kâranavan inherits all his property. The uterine brothers and sisters of the deceased have only a right to maintenance along with their cousin relations in the tarawâd. His wish to provide for his children, uterine brothers and sisters, cannot now be accomplished, except by a gift of his property during his life-time. As he has no hold on his wife and children, and as the connection he formed with his wife is voidable at her will or of her relatives, he is afraid of giving his property till his last moment. I know several instances in which persons died a sorrowful death without accomplishing their wishes. In case he carries out his intentions, the gift is dragged before a Civil Court and there fought out between his Kâranavans and Donees and is at last thrown away on some technical ground or other. To remedy all these evils, it is highly desirable that we should be empowered to dispose of our self-acquired properties by will.

6. With due deference to the Honorable Sankaran Nayar I beg to make the following suggestions dissenting from him.

- I. The females of Malabar being averse to going to public offices, they should be allowed to have marriages registered in their houses by an officer empowered in that behalf, by payment of a small fee.
- II. The minimum age of a bridegroom should be fixed at 25.
- III. In contracting marriages the consent of the guardian, who maintains the girl, should be held sufficient for the purposes of the marriage Act. The Kârnnavans, as a rule, do not maintain all the members of tarawâds, if the tarawâd property is insufficient therefor. The father, brother, or maternal uncle, or mother in the absence of these, should have power to give a girl in marriage.
- IV. The rules of divorce mentioned in the Bill appear to be too rigid, and are similar to those contained in the Christian Marriage act. In matters of divorce Marumakkathâyam people have hitherto been enjoying liberties unknown to any other nation in the world. It is therefore desirable that an easy form of divorce should be substituted. As the marriage now treated in the Bill is a civil one, the parties should be allowed to dissolve their marriage on their executing a deed of divorce before the Marriage Registrar.

The Mohammadan rules of divorce, which are less severe than those contained in the Bill, might with judicious selection be substituted. Moplabs following Marumakkathâyam law have some form of divorce which may also, with some

modification, be adopted for Malayalis. There is another form of divorce among Tiylars following Makkathâyam. A Panchâyat of their castemen assembled for the purpose, hears the husband and wife, and according to their decision, a divorce is pronounced by the husband in their presence. Such a form of divorce with requisite modification may also be adopted. Any of the above form of divorce which will not drag the parties to an open court will be acceptable to Hindus following Marumakkathâyam.

I have the honor to be,

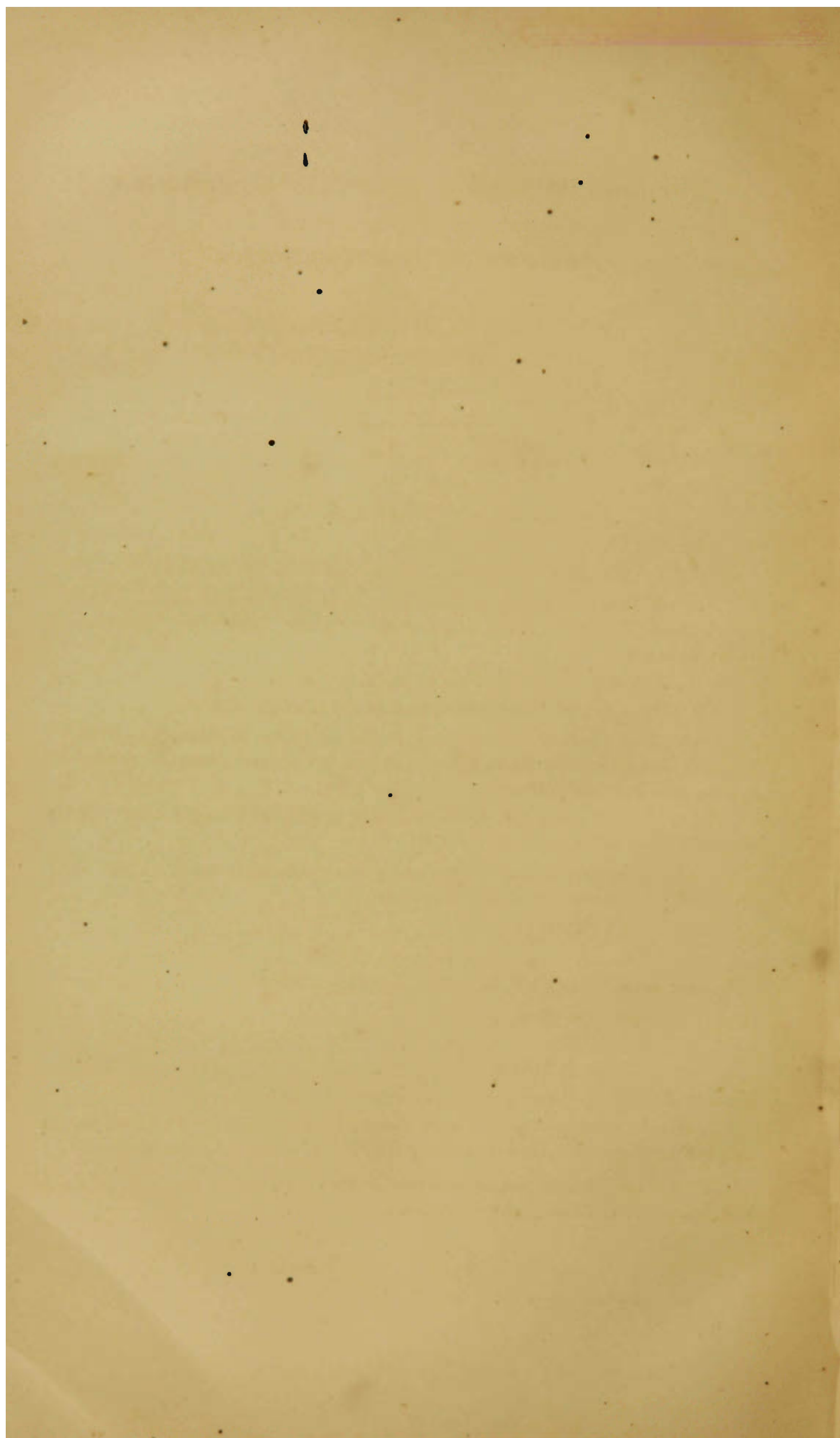
Sir,

Your most obedient servant,

E. AMBU NAIR.

Sub-Registrar Ponnani.





Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. P. KARUNAKARA MENON AVARGAL,

ESCHEAT DEPUTY COLLECTOR,

MALABAR.

1. Yes.
2. No.
4. Yes. The respective caste people out-caste them.
5. No.
6. The Elattûr river if any. (*Note*:—This is the Kôrapuzha).
7. A Nâyâr of North Malabar may, if he is otherwise eligible (*vide* Q. 1 *supra*). Some Nâyars of South Malabar may “marry” and have “married” in North Malabar.
8. *Vide* latter part of answer to the last question.
9. They *do* not. There is no reason why they should not.
10. It is a matter of conjecture. Probably because in olden days when the Kôlathiri Rajahs and the Zamorins were at war, the former wanted to prevent his fighting men from emigrating.
11. It is, in a word, a regular marriage as prevalent among other Hindus, *minus* its legal consequences.
12. Sometimes a man of the same caste and sometimes one of a higher caste. He is called a “Manavâlan”—a bridegroom.
13. Yes. Shame!
14. No.
No earthly reason why he should not, except that it is not the custom.
15. None whatever.
16. No.
17. I am told that “pollution” is observed in some parts of Malabar. Neither all divisions nor all parts of the District observe it.
18. I understand that in some divisions the Manavâlan would not tie the *tâli*, but would only hand it over to the girl’s mother, or other female relative.
19. Yes, though instances to the contrary have taken place, without any body being any the worse for the omission.
- No.
20. No formalities are necessary as I understand the word.
21. See last answer.

22. In North Malabar presentation of cloth takes place. In South Malabar even this is not *necessary*.

I believe so.

I believe so.

23. Certainly not.

24. The authority is the same as that which prohibits marriage between brothers and sisters, mothers and sons &c. &c.

25. She can.

26. I know of none.

27. Yes.

28. No.

29. Sometimes in her "husband's" house; at other times in her Tarawâd.

30. The custom of wives living in their husband's houses is more prevalent in North Malabar than in South Malabar.

31. Yes.

32. Except among unprincipled people, the rule is for one man and one woman to cleave together for life.

33. He does-.

34. I believe so, or he won't work.

Yes.

Yes.

35. "Generally" they try to earn something for themselves.

36. The former is the rule.

37. Yes. What one gets from his father is called his Futrâvakâsam. It exists both in North and South Malabar though in South Malabar we do not hear the *term* much used. The thing is there, however, all the same.

38. None that I can see.

39. I would prefer it. But if the Legislature won't allow this, then I would accept the alternative.

40. Yes e. g, in practice, (1) the man may have a wife living.

(2) The age bar does not exist.

(3) The guardian's consent is not necessary.

42. Unwillingness to continue the contract is enough.

43. Vide answers 29 and 31.

44. I agree to all except (e). I am not satisfied that "sufficient provision" is a wise provision. I would not on the one hand make the widow and children follow the property into Court or, on the other, compel the father to leave his everything to the widow and children, as I fear, he would have to do, unless his total acquisition amounted to something more than would "provide them with a suitable maintenance". I would give testamentary power in respect of (say) one half of a man's acquisitions.

45. Not *customary* except on the boundary between Malabar and Cochin.

(Signed.) P. KARUNAKARA MENON.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. M. OTHENA MENON AVARGAL,

SUB-REGISTRAR

PAYYOLI.

PAYYOLI, 25TH APRIL, 1891.

FROM

M. OTHENA MENON,

SUB-REGISTRAR OF PAYYOLI.

TO

H. M. WINTERBOTHAM Esq., C.S.

Sir,

I beg respectfully to acknowledge the receipt of your letter of the 8th instant enquiring (1) whether it is desirable to pass a permissive law enabling Hindus under the Marumakkathâyam or Aliyasantânam law to contract a marriage such as the law will recognise, and (2) whether it is desirable that the said Hindus should be given the power of disposing of their self-acquired property by Will. To both the questions, I beg to answer in the affirmative.

2. The first question assumes that there is no legally recognisable marriage at present among the Marumakkathâyam Hindus of Malabar. If this assumption is correct, the necessity for a marriage law will be admitted by all. The opponents of the measure do not say that no legally recognised marriage is at all necessary, for if they do they must forfeit all claims to be considered a civilised race. They simply contend that there is already a socially recognised form of marriage in Malabar which the law must consider as valid. The question then to be considered is whether there is at present a legally recognised or recognisable form of marriage.

The essential part of the marriage ceremony of the Hindus, according to the several *Smrities*, is the performance of what is called the Saptapadi or walking seven steps before the consecrated fire by the bride and the bridegroom together hand in hand. Such a ceremony is certainly not observed by the non-Brahman Hindus of Malabar. Among them, before girls attain maturity, it is usual to celebrate what is called a *Kalyânam*. But though the word *Kalyânam* signifies marriage, it is practically a meaningless ceremony, Saptapadi not being a part of it, and the person tying the tâli (the emblem of marriage) round the neck of the girl being often a Brahman or a male relation hired for the purpose or as it sometimes happens the mother of the girl. *Kalyânam* is therefore not a marriage sanctioned by the solemnity of religion or by the authority of the *Smrities*. The real marital relationship with which the *Kalyânam* aforesaid has nothing to do, takes place under various forms in Malabar. In North Malabar some recognised form is frequently observed. It is called *Potavamuri* and is somewhat like this:—When a young man attains to a marriageable age, his father or maternal uncle looks out for a wife for him, and with the approval of the majority of the members of the family selects a girl from eligible ones. The father or uncle then goes in form to demand the horoscope of the girl which is given of course if the girl's family approve of the match. Subsequently the father or uncle sends word that he will call on a certain day to fix a day for the marriage and

on that day he accordingly calls with three or four respectable neighbours. An astrologer is also called to consult the horoscopes of the young man and the girl, and if they agree, a most convenient day is fixed for the celebration of the wedding. The father or uncle who has gone then gives in the presence of the witnesses, the expenses, according to means, of the marriage feast to the girl's father or uncle, and after meals which all partake of, departs. The young man has by this time invited his neighbours and friends, and on the appointed day having obtained the blessings of his elders and having received from his father or uncle a certain quantity of clothes and a sum of money, proceeds in procession at night to the bride's house. Having arrived there, the girl is brought to the principal apartment of the house and is presented with the clothes and the money in the presence of some old neighbours who have gone with the procession. After sumptuous meals all depart except the bridegroom who remains to consummate the marriage. The next day the bride is formally brought over to the husband's house. Such is the most accepted form, but I may at the same time note that it is very much reduced when the marriage is to take place a second or a third time or when the man is of a higher caste than the woman (for it must be observed that in Malabar a woman is allowed to consort with any one of a caste higher than her own). There are besides this, forms whereby a man and a woman become husband and wife without any ceremony whatever. Such are "Veetâramkayaruka" or "Uzamporukkuka" which mean literally "somebody coming into the house" and "living (with the woman) in his turn" respectively.

In South Malabar there is little or no ceremony like the above. If the man's and woman's families agree, the former proceeds to the latter's house and becomes a recognized consort of the woman who is not brought over to the man's house, unless he is the senior male member of the Tarawad. About Palghat however there is some formality observed. Four or five elders present on the wedding day recognise the relationship and pronounce this formula:—"If he likes or if he dislikes, let him come and go for six months." If within those six months either party reject the other, the elders will call the delinquent party to account. A relationship formed as above is not binding anywhere in Malabar with the exception of the six months' time allowed in Palghat.

The opponents of the proposed measure say that the forms of connection above referred to should be considered as customs having the force of law. I understand that only such customs as are *certain, immemorial and binding* on all its followers will be recognised as valid by law. If that is so, certainly the Potavamuri form as well as the others above mentioned are not valid customs inasmuch as they are not certain, and people may or may not follow the one or the other.

2. In paragraph 383 of Mr. Strange's Manual of Hindu Law which is considered to be an authoritative exposition of Malabar Law, it is distinctly stated that concubinage is the rule in Malabar. Mr. Mayne accepts this view and the Madras High Court, I understand, adopts the same.

3. Although the marital relationship is formed without any religious or civil sanction as shown above, yet it must be admitted that in the majority of cases the parties behave well. It must however be also admitted that the tempting privilege of cutting asunder the relationship is often abused. Passion interest or caprice on either side suggest frequent motives for a dissolution and the connection is often degraded to a transient society of profit or pleasure. In the absence of a binding force in the relationship, we now feel a certain amount of insecurity, a want of perfect

unity between the husband and the wife, which deprives us of a great deal of the sweet pleasures of "home."

4. Apart from the moral aspects of the question, regarding which I need not say anything here, it seems to me that our present advancement justifies, under the circumstances mentioned above, the passing of a permissive law as proposed.

5. As regards the second question : I beg respectfully to invite attention to the subjoined table. In it I shall compare the important districts of Tanjore, Tinnevely and Madura with Malabar in the number of wills and gifts of immovable property registered in the three official years 1887—88, 1888—89 and 1889—90. The figures are taken from the published reports of the Registration Department. The registrations in the other Districts of the Presidency are far less than in those mentioned above.

Districts.	Number of wills registered in			Number of Gifts registered in		
	1887—88	1888—89	1889—90	1887—88	1888—89	1889—90
Tanjore	265	298	330	365	397	440
Tinnevelly	97	126	138	228	278	304
Madura	122	94	107	126	173	217
Malabar ... { Tellicherry.	14	30	12	524	725	598
{ Calicut ...	27	48	47	144	177	172

The difference between the whole of Malabar and the other districts is noteworthy. In his Administration report for 1889-90 the Inspector-General of Registration says:—"The large number of gifts registered in the Tellicherry District is due to the operation of Marumakkathâyam law." The Registrar of Tellicherry reports "Analysing the operations under this head performed in my office in the year 1888-89 when the largest number during the triennial period ending March last was recorded, and examining them minutely as regards the class of the community to which the donors belong and the relationship which exists between the donors and the donees, I find that out of 67 deeds registered, 28 were executed by Tiyars, 15 by Moplas and 24 by Nairs and other castes all of whom follow nepotism; and that the donors in 49 cases were the parents of the donees and in the remaining 18 husbands, brothers, sisters and uncles of the donees who had to be provided for. I have satisfied myself by a similar analysis that the deeds recorded in the remaining two years comprising the said period disclose the same truth. The same is the case as far as I have ascertained with respect to the transactions registered in the sub-offices under my jurisdiction, where the same law and the same customs having the force of law prevail." In the Calicut District where also the Marumakkathâyam law prevails, however, the number of gifts (172) registered is less than one-third the number in the Tellicherry District (598) although the total number of documents registered in the former district is considerably in excess of the number in the latter. The Registrar of Tellicherry assigns the following reasons for the comparatively small number of deeds of gift registered in the Calicut District. (1) The Tiyars and the Mopla population in the Tellicherry District follow the Marumakkathâyam law whereas the same classes in the Calicut District follow the ordinary Hindu and Muhamedan laws respectively. (2) In North Malabar married Nair women leave their Tarawads to live with their husbands, whereas in South Malabar women are

never allowed to leave their Tarawads. Moreover, although the Marumakkathâyam law does not allow the members of a Tarawad to claim division of the family property as a matter of right, still such divisions with the common consent of all the members are of frequent occurrence in North Malabar, while in South Malabar divisions of Tarawad properties are very rare. Consequently the sense of obligation to provide for children is much stronger and the ability to do so greater among the Nairs of North Malabar than of South Malabar. The deeds of gift executed in the East Coast Districts relate mostly to property made over by Hindu donors to their daughters or sisters or to religious or charitable institutions."

6. The number of Wills registered in Malabar is insignificant and is useless for comparison as the executants are mostly Moplahs going to Mecca.

7. I have given here the above table and the extract from the administration report in order to show that there is an apparent tendency in Malabar for a change and I think it may safely be inferred from the facts set forth that the executants of those gifts would have preferred if they had the power, a testamentary disposition of property to an actual transfer by gift as people generally are unwilling to part with their property during their lifetime.

8. I understand that about a hundred years ago such a thing as a private or self-acquired property apart from the joint Tarawad estate was almost unknown in Malabar. Whatever a member of a Tarawad earned belonged solely to the Tarawad. He dared not alienate it without the consent of the rest of the family and if, as an exceptional case, love or gratitude prompted that the wife and children should be given a livelihood, it was given as a Putravakâsam by all the members jointly. But all that state of things has been changed by the present system of administration of civil justice, which recognises individuality in the members of a Tarawad. Not only the individuality but the individual acquisitions of each member of the Tarawad have also come to be recognised, but only till he breathes his last, after which they lapse to the joint Tarawad. If the policy of the present administration in recognising individuality in the members of a Tarawad is to be consistently pursued, I dare say they ought to be allowed the power of determining who and in what manner their own earnings should be enjoyed after their death. The inconvenience now felt is indeed extreme. To speak in the first person—I am an official and a Marumakkathâyam follower, and mean to earn a moderate fortune. I have a wife and children who look only to me for support. Prudential considerations urge me to keep my estate in my own hands till I die. I may not make a will in favor of my wife and children, for, after my death it will be as valueless as a waste paper and I am ever tormented by the thought that after my death my estate will go to my brothers and sisters and not a pie will be given to my wife and children. There is danger both ways. I must either part with my estate to my wife and children in my lifetime and sacrifice my independence and depend solely on their good will and affection for my future subsistence or retain it in my hands and leave my wife and children to the chance of my being able to execute and register a deed of gift on my death-bed. It is simply cruel to suffer me to remain in such an embarrassing position.

The necessity for a testamentary power is thus apparent.

I have the honor to remain,

Sir,

Your most obedient servant,

M. OTHENA MENON,

Sub-Registrar of Payyoli.

Answers

1. Yes.

2. Not in North Malabar, that is in the Taluks of Cherakal, Kottayam and Kurumbranad. In the other Taluks it is sometimes allowed. I personally know of some instances.

3. The main divisions of the Nair caste are (1) Kiriyaṁ (2) Purath channatu (3) Akath channatu or Sudra. There are besides these (1) Urāli, (2) Vyapāri or Rāvāri, (3) Pallichān (4) Vattakātan (5) Andiyur and (6) Chembu kotti. Kiriyaṁ is the highest, and males not females can have Sambandham in any of the others. Males in the Porath channatu division can have Sambandham in any of the others except Kiriyaṁ. And males in the Akath channatu division can have Sambandham in any of the others except Kiriyaṁ and Porath channatu. In Akath channatu there are many sub-divisions among whom Sambandham never takes place. In the last named six, intermarriage is prohibited.

4. Yes it does. The man however has nothing, but the woman and her children born in such Sambandham are never admitted into her division afterwards.

5. No.

6. Korapuzha.

7. Nair men from North Malabar form Sambandham in South Malabar, but Southern Nairs rarely if ever get females from the North. I know of only one such instance.

8. Not generally done. The reason I think is that Nairs of North Malabar are very strict observers of caste distinction and unless they know for certain the *Kulam* of a Nair he will not be allowed to enter the cooking apartment or to form Sambandham with women.

9. They may not. There is likewise a barrier in the north and east viz, the Kassargod river and a small stream in Wynad. There are a few instances however, of the rule being broken with impunity.

10. The story is that Parasu Rama got three females from Indra, an Asura, a Gandarva and a Deva. The first he settled at Gokarnam, the 2nd in North Malabar and the last at Trichur. The progeny of the three are prohibited from associating with one another. The real cause may be that Rajahs of Kolathnad made such a rule while they owned sway from Korapuzha northwards.

11. Tāli-kettu is a mock marriage ceremony which every girl before the 13th year of age must undergo.

In North Malabar. This is a four days' ceremony, on the first day the girl or any number of girls who have to undergo tāli-kettu are brought together before the Brahman who is to tie the Tāli. At an auspicious hour he does pooja to as many pots of water as there are girls and pours the water on their heads. Afterwards a Tāli is tied to the neck of each by the Brahman who then receives a gift (Dekshina) from the girls and departs. The second day is what is called Ra-Kalyānam or night marriage. The girls are brought to the marriage-pandal, where a woman of the Ambalavasi caste sing a song, the girls standing at the time with a vaseful of rice with a cocoanut in it. When that is done a Mārayān ties a ring on the right arm of the girls. Then a Jassamine plant is planted and watered; not necessarily by the girls undergoing the ceremony but by some other girl on their behalf. The third

day is the Pakal Kalyānam or day-marriage. The woman's song as on the previous day takes place first in the pandal, then at the tank, then again at the pandal. That done, the Mārayan unties the ring tied by him the previous day calling the girl for the first time "Amma" at the time. The bringing of Jassamine flower from the plant planted the previous day completes the major part of the ceremony. The fourth day is devoted to going to worship at a temple and the ceremony is then over. The above is the usual form, but in these days, in order to curtail the heavy expenses of four days' feast the Tāli-tying is done on the Ra-Kalyānam day. If the girl's family is too poor to provide even a three days' feast the girl is taken to a Brahman's house to tie the Tāli.

In South Malabar the form is different though the ceremony lasts for four days there also. In the Charnatu division it is a Nedungadi or an Erati that ties the Tāli; and one man is enough for any number of girls. In the other divisions for each girl a "Manavālan" is selected according to agreement of horoscopes. On the first day he goes to the girl's house, and presents a cloth to her; on the second day he ties the Tāli; does nothing particular on the 3rd day; on the fourth day he cuts into two the cloth given, one part being given to the girl and the other part taken by him. From the commencement of the ceremony until the cloth is cut, he is regarded as a duly married husband. The other minor formalities such as the song of the Ambalavāsi woman, the bringing of Jassamine flower and the worship at a temple are more or less like what prevail in North Malabar. In families in poor circumstances, it is usual for the mother to tie the Tāli on their daughters on Onam days; and in the event of a selected Manavālan being prevented from attending by illness or accident the Tāli is tied on his behalf by a Brahman.

12. The tāli should be tied either by a Brahman or by a male relation whose connection with the girl, if there was a valid marriage would be held unobjectionable. In North Malabar there is no name for the man. In the south if he is not a Brahman he is called "Manavālan."

13. Throughout North Malabar and among Charnatu division in South Malabar one man ties the tāli on any number of girls at the same time and place, other divisions in South Malabar have a separate Manavālan for every girl.

14. Certainly not in North Malabar. There is not the remotest idea that by the ceremony a marital relationship is meant. In South Malabar the theory is that the Manavālan has a right to take the girl as his wife. On the fourth day of Kalyānam the right is relinquished by cutting off the Kettu potava which is a cloth given by the Manavālan to the girl.

15. There is no prohibition.

16. Never.

17. Not in North Malabar. In South Malabar pollution is observed by the woman among Kiriya and Sudra. I am not sure about Charnatu.

18. Yes.

19. Yes.

Nothing.

20. Yes. It is called Potavamuri in North Malabar, Sambandham in South Malabar and Ketakkora about Palghat. In a Potavamuri the man's and woman's horoscopes are first consulted to see whether there is (പൊരുത്തം) agreement. If there is, a day is fixed and a big feast provided. The man presents to the woman a certain quantity of clothes and a sum of money. In the Sambandham form, the man

goes to the woman's house with a few friends and sleeps there, thereby making it public that he is a recognised husband. Ketakkora is similar but there is greater publicity and more pomp attending it. In both of these last a present of clothes is not essential.

21. Yes, except that a previous consultation of horoscopes of the man and the woman and the tying up of the two together as symbolical of marriage, are dispensed with.

22. No. In North Malabar an agreement between the horoscopes is indispensable, and the ceremony is completed by the gift of clothes and money. These are not required in South Malabar.

No. Even in North Malabar, Sambandham without a gift of clothes takes place. That is called Vitâramkayaruka or Uzamperukkuka. In fact what Vitâramkayaruka is in North Malabar is Sambandham in South Malabar.

They are not the same throughout South Malabar.

23. Not in North Malabar and in South Malabar; the custom has almost wholly died out.

24. Prohibited only by the refinement of society. There is certainly no rule of law, neither Sankarachariya nor the reigning Rajahs of old having interdicted it.

25. Certainly she can.

26. Nothing.

27. Yes.

28. Nothing.

29. Either in her own house or in that of her husband.

30. No. In North Malabar a woman generally lives in her husband's house. But in South Malabar, unless the man is the senior male member of the house, the woman lives in her own house where she is visited by the man.

31. In North Malabar the woman and children are generally supported by the man but that is not the case in South Malabar where the woman's Tarawad protects them.

32. There are many instances where the union has subsisted happily throughout life but there are also innumerable instances where passion, interest or caprice has furnished motives for frequent changes.

33. Yes, he does.

34. No.

Sometimes they do.

Yes.

35. Anandaravar working for the good of the Tarawad is now a thing of the past. There is a host of Anandaravars who simply live at the expense of the Tarawad without doing anything either for themselves or for their Tarawad.

36. If they earn anything they certainly give that to their wife and children, nothing being given to the Karanavan.

37. Yes, but it is not a right which may be enforced by law. Well-to-do Tarawads give a paramba or paddy land to the children of a member of the Tarawad in the event of their being in poor circumstances. Such a gift is called Putravakâsam. There is nothing like it in South Malabar.

38. None whatever.

39. I would have both. In respect to the prejudices of the people I would retain the prevailing forms and give validity to them by registration. There is no place where a marital relationship is formed without the knowledge of at least six persons. I would make the registration of this connection at any time during the lifetime of the husband and wife an evidence of marriage, the parties proving to the satisfaction of the marriage Registrar, that at the time of marriage they had duly fulfilled the conditions mentioned under question 44 *infra*. To meet exceptional cases the proposed form may also be adopted.

40. (1) This is not necessary in a Sambandham. One may now have any number of wives and contract again a recognised Sambandham.

(2) Now the man and the woman may be of any age.

41. In the second condition I would fix the age of the man at 21. Early marriage is of course to be put down as much as possible; and even at present marriage seldom takes place before a man is 25 years.

I would add another condition *viz.* "The man must have entered some profession, or have independent means of livelihood, or the woman must possess in her own right a fortune amounting to not less than Rs. 500."

I think such a condition is very desirable. We are relaxing caste-distinctions to a certain extent. In view of the difficulties which may arise from the exclusiveness of the ignorant section of the community who adhere to caste rules, I think it is necessary that the married couple should be able to lead independent lives. Moreover such a condition is to be found in the marriage law of some of the European countries.

42. Bodily infirmity, ill treatment and adultery.

43. In North Malabar the husband individually or the husband's Tarawad maintains the wife and children. In South Malabar the husband has to provide clothing and oil for the wife and nothing more.

44. (a) This is the most important provision. A transfer of the guardianship of the wife and children from the Karanavan to the husband is imperatively called for in Malabar. If a legislative provision is necessary for anything it is for that.

(b) This is too much I think. It will be consistent with usage if it be provided that during the continuance of the marriage the woman's Tarawad shall *not* be bound to maintain her and her children.

(c) Unobjectionable.

(d) Very good.

(e) The power to dispose of one's self-acquisitions by will is absolutely necessary. But the rule that the husband shall make sufficient provision for his wife and children and a right granted to the wife and children to obtain so much of the property as will provide them with a suitable maintenance are in my humble opinion most mischievous. They will tend to an enormous increase of litigation, which is already the curse of the country.

(f) Unobjectionable.

45. Yes.

M. OTHENA MENON,
Sub-Registrar.

Payyoli,
5th May, 1891.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. K. KRISHNAN AVARGAL,

SUB-REGISTRAR.

CANNANORE.

With reference to your circular letter dated 23rd ultimo, I have the honor to submit my replies to the questions contained in the paper enclosed therein.

As a preface I may be allowed to say that any custom, hereinunder given, if not particularised as obtaining in a special locality, may be taken as prevalent in Kôlathunâd *i. e.*, that part of Chirakkal Taluk where the Chirakkal Raja has caste jurisdiction. It is only to these localities that my experience is confined.

1. As a general rule it may be said that amongst Nâyars and higher castes, a man of a higher division can form Sambandham in a lower division. This rule is not, however, true of certain divisions; local customs have also made some exceptions. Divisions and sub-divisions among Nâyars in this Taluk alone, are so numerous that an enumeration of them, and a description of their caste rules would, I am afraid, be almost impossible.

2. The same liberty of forming Sambandham in a lower division is never accorded to a woman.

3. Of the two main divisions of Nâyars in North Malabar, Purathu Chârnathu and Agathu Chârnathu, the first happily has no sub-divisions, while the second has many sub-divisions. A Purathu Chârna Nayar can form Sambandham in his own division and in all the sub-divisions of the Agathu Chârna division. The old saying "Wâriyath ninnu châliyathôlam" (from the Wâriyar Caste to the Châliyan Caste) though not practically put into force, sufficiently indicates the custom that a Nayar man is not excommunicated, if he cohabits with women of caste from the Wâriyar down to the Châliyan caste. On the other hand, a man of the Agathu Chârna division is not at all allowed to have connection with the higher divisions of Purathu Chârna, nor in some cases, beyond the pale of his own sub-divisions, though he could form Sambandham with women of lower sub-divisions such as Kôlyân, Erumân, Urâli Nayar etc. Unlike the case in South Malabar, all Nâyars will not form connection with Vâniar, Vannathân, Pallichân and Valinjiyan castes. These rules have been so very strictly enforced in times of yore, that any breach of them has been punished with nothing short of death. In olden time, such punishments have been meted out to those fallen women by their brothers, who deemed it their bounden duty to kill them and all their children in cold blood. This is instanced among other numerous traditions and stories by two prominent cases which form the burden of a "Thôttam" (a song recited at devil-dances) and of a Kunda-pât or Thachôli-pât. In the first case a female of Kadângottu family, (Purathu Chârnathu) was erroneously

suspected of having had illicit intercourse with a Vâniyan (Vattekkât Nayar of South Malabar); she and her children were murdered by her brother; she was since deified and even to this day a devil-dance (Tira) is performed as a vow in honor of her chastity, when females of a Tarawâd do not bring forth female children. The heroine of the other song, Kunda-pât or Thachôli-pât was a member of the Mâvila Illam (also of Purathu Chârna division); she formally underwent Sambandham with a man of the Murikanchéry Illam of Akathu Chârna division, who, being then the head Kâriastan, of the Chirakkal Raja, commanded great influence, but the caste elders were inexorable and the female was doomed to die in vindication of the honor of the Tarawâd and clan. In these days, such a woman and her offspring are only excommunicated; they then inevitably form a separate lower sub-division, sometimes they merge into other sub-divisions and hence.

5. Such Sambandhams are never validated by a Prâyaschitham; the female and her children ever remain "outcasted" or "out claimed" as it were.

6. To say that Kôrapuzha or (Quilandy river as Dr. Gundert has it), is the recognized boundary between North and South Malabar for caste purposes, would be rather vague in the light of the customs obtaining in Kôlathunâd; for aught I know, a Nayar female of the latter country is never heard of having formed connection with a man of Kurumbranad proper (the country between Kôttapuzha and Korapuzha); in fact, those of Kôlathunâd generally form connection among their own community and with families generally known to them. Again pollution by touching Tiyans is observed among Nayars North of Kôttapuzha, while those to the south of it, observe pollution by approach. In these circumstances Kôttapuzha (Mûrat ferry) must be taken as a boundary for caste rules. This view is plainly supported by Dr. Gundert (see Kôttapuzha in his Dictionary) see also Gazetteer of Southern India published by Pharos and Co in 1855 pages 514 and 519 as regards Mappillas and Tiyans.

7. Nayars of North Malabar do generally form Sambandham with females of South Malabar but Nayars of South Malabar are not allowed to form Sambandham with females of North Malabar.

8. The reasons, that may be assigned for this custom, are I humbly think to be the following:—

(1.) The Nayars of North Malabar generally deem it derogatory to their Tarawâd dignity to allow their females to be kept and treated as concubines, residing all the while in their own houses. They want that their females after Sambandham to reside in the houses of their husbands. Females crossing the Korapuzha river (see answer to question 9 *infra*) lose caste and hence they are not given in Sambandham to Nayars of South Malabar who have, of course, houses only to the South of Korapuzha.

(2.) They generally prefer females to be given in Sambandham to men of their own division to which men from the South do not at all belong.

(3.) Nayars from the South are indiscriminately styled Nayars, Nambiyars Menons, Panikkars &c even though they belong to Vâniyan (Vattekkât Nayar) Van-nathân (Veluthêdath Nayar) Valinjian (Vilakkathala Nayar) or bearer caste (Palli-chan); they are thus naturally viewed with suspicion as really belonging to lower divisions, with whom it is not customary to allow Sambandham in North Malabar. Enquiries on the matter in the old days, when means of communications were few, entailed much labour, and perhaps some such connections had turned out to be of the prohibited type, inevitably bringing excommunication. These considerations

might have induced the Nayars of North Malabar, to make it a rule, not to give at all a girl in Sambandham to a Nayar from the South.

9. The Nayar women of North Malabar are not allowed to cross to the South of the Korapuzha river.

10. And I think the following reasons may be assigned for the custom. In the olden time Kolathunād extended up to Korapuzha and Kolathiri, who is said to have exacted feudal services (military) from thirty thousand Nayars under him, thought it wise to rule with a view to stop emigration of these feudal serfs, that to cross that boundary for a female of North Malabar (who is, of course only likely to propagate such serfs rightly belonging to his Swarûpam) was to entail excommunication.

11. Tâli-kettu kalyanam means the feast or ceremony of tying the Tâli, a small and flat gold ornament strung on a piece of thread with golden beads on each side. I am not personally acquainted with the formalities observed among the Nayars. The description of the ceremony hereinunder given is, therefore, of that obtaining among the Tiyan community of North Malabar, especially of Cannanore and Tellicherry. Even these formalities are not alike in all North Malabar, there being certain variations in their order, and even in their number. I may start with the presumption that the ceremony is, on the whole, an imitation of the Vêli or wedding ceremony of the Brahmans; it is therefore a mock wedding; the bridegroom elect is nowhere, but is feebly represented by a Brahman priest, in the case of Nayars, and by a female of the local caste barber, in the case of Tiyans. Girls should have the ceremony performed to them before they attain puberty. It is therefore generally performed at the 5th, 7th, 9th or 11th age of the girl. An auspicious day is fixed for the ceremony in consultation with the local astrologer. The day usually put down as propitious for the marriage ceremony among Brahmans, is invariably selected. Three days before such a day *i. e.* on the third evening before it, the girl is to undergo the preliminary ceremony of (Thirattivekkal). This is defined by Dr. Gundert as "putting her aside as if for the first menstruation." This is perhaps in imitation of the custom of Brahmans on the other coast to have the marriage ceremony performed before puberty, the contrary being an Anâchâram. This mock menses ceremony is performed as below. The girl, after being clothed in a Vannâthi mâttu (cloth which removes pollution and brought by the local washer-woman), is made to sit down on a plank placed on some paddy and rice in the Eastern courtyard; water, in which some rice, (this rice is made into a Kanji on the same day and distributed among the women who had assisted at the water-pouring ceremony) will be steeped, is poured on her head by the elderly females of the Tarawad and of the Tarawads of close relatives and neighbours, with spoons improvised with leaves of jack, mango and other trees, and of betel and pepper vines, and with halves of cocoanuts; she is then conducted inside and made to lie down, always in the room "Châyippu" just west of Padinhâtta, on another Vannâthi-mâttu, now-a-days substituted by a grass-mat, under which the rice and paddy, over which she was sitting while the water was poured on her head, would be strewn at each end of it with the leaves above named, in the middle. During the next two days she is not to touch any human being just as in the same way as a woman in her menses. She is not to see any man during these days other than Hindus. She is however given a companion, always a girl, who has not undergone Tâli-kettu ceremony. This latter is generally called Kanya among Nayars, and its Thalbhavam, or corrupt pro-

nunciation, Kanyikalam, amongst Tiyaṅs. She is to render all small service to the Kalyanam girl during her compulsory retirement. The Kalyanam girl is to abstain from meat and fish during these days. On the third day *i. e.* the day fixed (for the ceremony) she is taken to bathe in a tank in a procession formed of all the females invited for the feast. The procession is accompanied by an elderly relation carrying a lit-up-lamp and Nāzhi of rice with a folded cloth in a brass plate. This is generally known as Vilakku and Nira Nāzhi. After bath, she cuts a cocoanut in twain, perhaps in propitiation of the evil spirits in and around the tank. She is then clothed in a fresh pudava, or silk, and decked with all sorts of ornaments available. On the return home of the procession, she is forthwith conducted to the middle room. There, in the middle of that room, two rectangles one within the other, would be formed by the barber woman, the inner one with rice, and the other, with paddy. In the inner rectangle of rice, a plank with saffron lines on them, will be placed; on this she sits down; she then offers a Tālapoli to Bhagavati. It is done in this way. A brass plate in which a Nāzhi of rice and some flowers of areca nut tree are topped over by a husked cocoanut, whose fibrous tuft at its mouth is converted into a torch by rolling rags round it steeped in cocoanut oil. This torch being lighted, she is taken in procession to the Pandal, specially erected for the purpose, in front of the house just facing the Eastern middle door. An aunt of the girl, that is generally the wife of her Karanavan, precedes her with a sitting plank and places it in the inner rectangle of rice prepared in the middle of the Pandal, similar to the one inside the house, and takes her position behind it. This Pandal is more or less profusely decorated with leaves, flowers and festoons; each of the four pillars of it will have tied to it a bough of Mangalappāla tree (*Echites*), Eranhi tree (*Munies Elenji*) and mango tree and a plantain tree with a bunch of plantains. Before the procession enters the courtyard, the barber woman asks the astrologer whether it is time (Muhur-tam) for the Kalyānam girl to enter the Pandal. On his answering in the affirmative, the procession which is formed of the girl with Talapoli and 7, 11 or 21 elderly women, now enters the courtyard and goes round the Pandal three times. Some of these women carry in their hands the lit-up-lamp and Nira Nāzhi described above. On entering the Pandal she sits down on the plank kept for that purpose by the aunt, and places the Tālam (dish) before her. Then the sprinkling of rice, (Arinuri) takes place. This is done only by elderly females by throwing the rice taken from the Nira Nāzhi first on the lamp, and then on her head, in the way of blessing her. Here, the barber woman calls three times to the Kanisan and asks him whether the auspicious time for tying the Tāli is come; on his formally answering in the affirmative, she ties it round her neck. If the girl has been affianced, the duty of tying the Tāli devolves on an elderly female member of the affiancé. In my own family circle, there has occurred an instance of the affiancé, himself tying the Tāli at the Tāli-kettu, and wedding ceremonies were celebrated on the same day. I have known no other such instance after this. On the Tāli being tied, she gets up to receive the presents of new clothes and money from the invited guests. Relations are bound to make presents of clothes; friends may also do the same; the clothes are in pairs and are termed Mantrakoti. There is certain precedence observed in the order of tying these clothes round the waist of the girl, but in this, local customs vary, the first however, being in every case that provided by the head of the house. This pair of new clothes is called Muhūrtakoti. After removing the pile of clothes, she is bidden to sit down again and to open the leaf cover of an earthen pot in which three bundles have been already deposited by the barber woman (one containing rice and

flower, the second gold and flower, and the third charcoal and saffron). She is then asked to take out one of the bundles. If the first taken be the one containing gold and flower, or rice and flower, her future life would be a happy one. If the first taken contains charcoal and saffron, it forebodes evil to her. She is, after this, made to imitate the kitchen duties of a married woman; a grinding stone and a roller, and a pot and a ladle and a cocoanut scraper, would be presented to her who would pass them over by merely touching them. She then goes out of the Pandal by the Northern opening and being taken into the open compound, is asked to look at the sun, as if she is to prepare herself to bear the brunt of the hot sun in her future married life. Her companion, in the meanwhile, goes to a tree and pours water at its root, and pretends to collect flowers from a jessamine plant. This is called "Mullakîzhil pôga" This is perhaps in token of her coming of age as if to prepare to enjoy the married life, jessamine being a flower generally worn by grown up women. This closes the mock wedding. The guests are then feasted. The rice and paddy used for the several purposes detailed above, are appropriated by the barber woman as her perquisites. In minor details I may have omitted certain trivial formalities; many of those are observed in certain localities, while in other places, they are totally left out. In fact no written code of these customs, with their proper sequence and time—one true of all parts of North Malabar—could be framed.

12. Among Tiyans in North Malabar, the Tâli is tied as said above, by the barber woman. Among Nayars generally the Brahman priest of the nearest temple ties the Tâli. Many well-to-do Tarawads among them, have hereditary Tâli-tiers. I do not know whether the man who ties the Tâli among Nayars, is known by any name in Malayalam.

13. It is a custom among Tiyans to have the Tâli tied by the barber woman to a number of girls at the same time. I do not know what the custom is among Nayars.

14. The custom among Tiyans, is for a woman to tie the Tâli. Among Nayars of North Malabar, it is not generally the custom to allow the man who ties the Tâli to cohabit with the girl. For, if the custom is otherwise, the same Brahman will have to claim the rights of cohabiting with a number of girls around the temple in which he performs the Pûja, or if he is, as is sometimes the case, hereditary Tâli-tier, he will have to claim the anomalous right of cohabiting with a number of girls in the same Tarawâd.

15. In spite of all these, there is no objection, they say, to give the girl in Sambandham to a Tâli-tier afterwards, provided of course, that his Sambandham with that girl is not of a prohibited type on other grounds.

16. I have not known any instance of such a Sambandham.

17. In North Malabar, so far as I know, it is not at all the custom for any Nayar girl to observe pollution when the Tâli-tier dies.

18. Among Tiyans, Tâli is never tied by the mother of a girl.—Whether it is a custom among Nayars, I do not know.

19. Every Marumakkathâyam girl should undergo Tâli-kettu ceremony before reaching the age of puberty at the risk of losing her caste, if the ceremony had not been performed before the first menses. Tâli-kettu ceremony being an imitation of the Vêli or marriage ceremony of the Brahmans, it may be presumed that this custom originated in the Brahman custom of out casting a girl, if she had not been married before she attained puberty.

20. Among North Malabar Nayars, when a girl is asked in marriage, two ceremonies are generally performed. They are called by the name of Pudamuri and Vettalakettu. The first is the real Sambandham or marriage ceremony performed at the house of the bride, by cutting a pair of new clothes by the bridegroom, and presenting it to the bride to wear. The second is the bringing home of the bride, when a number of betel leaf bundles are taken to the bride's house by the bridegroom's close female relatives. The details of these two ceremonies, I do not feel competent to describe. Among Tiyans of North Malabar, the further ceremony after Tâli-kettu kalyanam which a girl should undergo when she is asked in marriage, is called Mangalam. Following are the formalities attending the ceremony, so far as they have come to my notice; but before I describe them, I must preface my remarks with these qualifications, that the description is not an exhaustive one and that the several details are not the same in every part of North Malabar. When a girl has been chosen, a close relation of the bridegroom and a friend of his (commonly known as middle-man) Nadukkâran, repair to the house of the bride, and make a formal proposal of the match to the Karanavan, or the father of the girl, as the case may be. He asks time to consult his relations especially those connected by affinity. If these latter approve of the marriage, the horoscope of the girl is sent over to the bridegroom's party who on receiving it, consult an astrologer whether the match would be a successful one. On his approving of the match, the parties arrange for an auspicious-day-fixing-ceremony (Mangalam kurikkal.) On that day, the close relations of the bridegroom, some nine or ten in number, go to the house of the bride where, a day is fixed for the wedding in consultation with the local astrologer. The horoscope of the bride and bridegroom are then tied up together and handed over to the bridegroom's party. In the meanwhile, a lit-up-lamp and Nira Nâzhi would be placed in the middle room with the sweet-meat offerings for Ganapati. On a plank, the Kâranavan of the girl would sit, just behind the lamp and other articles. The close relatives of the bridegroom's party sprinkle rice on his head etc. (Arinuri) and then hand over a sum, not less than 11 fanams, as if it is an earnest money, in token of the bargain being struck. The Astrologer is also to be paid by the bridegroom's party. The bridegroom's party is, after this, feasted along with those invited by the bride's party from the neighbourhood and from among their relations and friends. It is the duty of the bridegroom's party to invite all their friends and relations for the wedding. These assemble at his house early in the day fixed for it, and therefrom starting in procession to the bride's house, the bridegroom clad in a pair of new clothes, is conducted to the middle room where the ceremony of sprinkling rice with the usual accompaniments, is gone through. On their arrival in the bride's house, the first ceremony is again the sprinkling of rice on the head of the bridegroom. After this, general feast of all the guests invited takes place, and when it is over, betel nut &c, would be presented to the guests. The bridegroom is then again conducted to the middle room with his best man and then subjected to the same ceremony of sprinkling rice, but now with the bride seated on his left and best man on his right side. This being over, the middle man hands over the (Kânam) mortgage money which is usually 42 fanams in some parts, but in Chirakkal Taluk, excepting Cannanore Cantonment, invariably calculated at the rate of 2 or 1 fanam per each guest brought by the bridegroom. The formula recited by the middle man while handing over this amount to the Karanavan of the Bride is different in several places. Dr. Gundert gives an instance which is as follows. തിരുൻ തിരു

തിരു 11½ പനത്തിന്നും പച്ചാടത്തിന്നും പരിയംപെയ്യ കെട്ടും കിഴിയും കൊടുത്ത കൈപ

ശിക്ഷണം" I must not omit to mention that the girl would be presented here by the bridegroom's party with a pair of new cloths; this present as a rule, should be brought by one of the married sisters, of the bridegroom; one of these would be cut and given to her for wearing forthwith, and clad in which alone, she is to accompany her bridegroom. The other piece is thrown over a cloths-line in the middle room, to be presented hereafter according to the local usage, to the wife of the Kâranavan of the bride or her father's sister. I may digress here and say that, if the mortgage amount is only 42 fanams, the bridegroom is to perform the subsequent ceremonies of Eruthu Kalyânam (first menses ceremony) and Pumsavanam (first pregnancy ceremony). After further sprinkling of the rice by the elderly male and female members of both the Tarawads, and of their friends, the bridegroom's party start for his house with the bride. Arrived at that place, the bridegroom's sister pours water over the feet of the bride as if in token of having accepted her in her Tarawâd as her Enangathi (sister-in-law). The next day the bride, the bridegroom and the best man are again invited to the bride's house; they pass that night there; this ends the formalities.

21. I do not know whether the formalities observed when the Sambandhakâran is a Nambudiri or Pattar, are the same as those observed when he is a Nayar.

22. The formalities attending the Sambandham amongst Nayars are not the same in North and South Malabar nor are they the same amongst Tiyans of the same division. The description of a Tiyân's marriage given in the District Manual, differing as it is in many points from the description given above of a Mangalam in North Malabar, is of one that is usually celebrated among Tiyans of South Malabar.

22. The formalities among Nayars of North Malabar are the same throughout it; but amongst Tiyans, they differ in several localities.

I do not know whether the customs observed are the same throughout South Malabar.

23. Polyandry is never practised in North Malabar in any caste. In South Malabar amongst Nayars of Nedunganâd, Walluvanâd and Ernad the custom, I hear, still prevails, and amongst Tiyans South of Korapuzha, a single wife is married to all the brothers in a family. These absurd customs are however dying out.

24. I do not feel competent to answer the question.

25. In North Malabar a woman, if she wishes, can terminate a Sambandham both among Nayars and Tiyans by staying away at her Tarawad house and by persistently refusing to go to her husband's house after the repeated entreaties and pressure of her elders. I do not know what the custom is in South Malabar.

26. Among Tiyans in North Malabar, if either party wishes to dissolve a connection, each has to ask the middle man to go to the other house and announce the fact. This is called Achâram kodukkuga on the side of the male, and Achâram vanguga on the side of female. But if either party separate and stay away at his or her house without any communication or exchange of courtesies for two successive festivals of Onam and Vishu, she may be considered at liberty to form fresh connections. The marriage tie being thus very easily loosened, it is very necessary that there should be a law to make it more binding.

27. A man can have Sambandham in more than one house at the same time. This custom is equally prevalent among Nâyars and Tiyans of North Malabar.

28. As said in the above answer, there is nothing to prevent a man to be polygamous if he chooses.

29. During Sambandham, it is generally the custom both among Nâyars and Tiyans of North Malabar for the woman to sleep and take her meals at the husband's. If the husband has more than one wife, it is the custom not to house them in the same building for obvious reasons. It is a custom among Tiyans that a kept wife or a concubine, would never enter the house of her husband, unless she undergoes the marriage ceremony in the way of ratification, on however small a scale; the avoidable condition in such a case being the bringing home of the wife by a sister or other close female relation of the husband. The above custom of taking the wife home, though generally prevalent among Nâyars also, is much affected by the peculiar circumstances of each case; for instance, if the husband is a Brahman, he does not like to take her to his Illam, where she cannot freely mix with the inmates of the house, and where she is wholly forbidden to enter the kitchen. In such cases, the well-to-do husbands have separate houses near their own, where they take their bed in the night, and where their wives and children generally live.

30. The above is the custom in North Malabar. In South Malabar I understand, the wives generally live in their own Tarawad houses except in the case of some public officials who take their wives wherever they go.

31. In Tarawads in North Malabar, it is generally the custom for the husband to support the woman and her children during wedlock. In exceptional cases, where the husband becomes very poor, the uncles take up the support of his wife and children. It is a custom so much binding on a man, that to neglect a wife and children (as is generally the case in South Malabar) is considered one of the greatest social delinquency. Further, in North Malabar, the expenses for maintaining them is considered a legitimate charge on the Tarawad property of the husband.

32. It is not the rule for one man and one woman to cleave together for life, but among many, especially public officials, it is considered a disgrace to have more than one wife, or to have a concubine, or to change Sambandham frequently. The description of the married life in Malabar, given by a writer in the Gazetteer already mentioned, so long back as 1855, so correctly portrays that life as it now is, that I am tempted to make the following long quotation from that book. "Though repeated change of the Bharthavu (husband) is permitted, it is regarded as a disgrace to the woman and as indicative of licentious disposition that this should occur frequently and without sufficient reasons. Instances are by no means unfrequent of a fidelity through life worthy of the most perfect institutions."

33. See answer to Question 31.

34. No allowance is generally made by a Karanavan if an Anandaravan work for the Tarawad unless it be the usual supply of rice and curry at the appointed times, and the periodical supply of cloth, oil &c. in common with the other members of the Tarawad. Anandaravans do often cultivate Tarawad land for a rent. In such cases, they are treated as any other tenants, and are allowed to appropriate the surplus and deal with it as they please.

35. The custom that now obtains among the North Malabar Marumakkathayists as regards their work and earnings is as follows. If the man has been brought up by his father and put to some work, his earnings as an Anandaravan are for himself; he does not then generally work for his Tarawad. If on the other hand, a man on account of early death of his father, or on account of his father being a poor man is brought up at the Tarawad house at the expense of the Karanavan, the Anandaravan as a rule, works for the Tarawad, and hands over his earnings to the Karanavan.

The Anandaravans do nevertheless earn something for themselves by hook or by crook.

36. If the Anandaravan lives in the Tarawad¹ house with his wife and children, these latter are supported by the Tarawad. In such cases the rule is to hand over however small a portion of the earnings of an Anandaravan to his Karanavan. But there are instances in which the Anandaravans try to evade this charge.

37. Putrávakâsam in the general acceptation of the word in North Malabar is the property bought in the name of the children by a father out of his own money or property (always self acquired), given by a deed of gift, or by word of mouth, by a father to his children. The word Avakâsam is therefore a misnomer inasmuch as a son cannot claim as a right, any share from the father's Tarawad or self-acquired property after his death.

I do not know whether there is anything analogous to this in South Malabar.

38. I do not see any objection to providing a permissive marriage Law for Nâyars.

39. I would prefer to retain the customary form and make the subsequent Registration of the marriage evidence of its legal recognition. The solemnization of the marriage, in the form prescribed, in the presence of the Registrar, is objectionable on many grounds. (1) It is an innovation too radical in its nature to be imported in a society which is not, at present, sufficiently educated to receive it. (2) The parties to which the bride and bride-groom belong, let them be of any caste, would not like to have their marriage celebrated in the presence of a public functionary almost always a man of another caste or creed.

40. The Sambandham recognized in practice does not insist on conditions 1 and 2; the conditions 3 and 4 are always observed. To put into practice the first proviso to condition 4 (read with the first para of the section), is to subvert the whole caste system as it now obtains among Nâyars, and I am afraid, it would pull down the whole caste fabric in all Malabar, for under the section, it will be lawful for a Tiyan to marry a Nayar woman and *vice versa*,—a thing equally repugnant to both classes in the light of the present feelings of the public mind, though such a consummation is highly desirable on ethnological and other grounds. The second proviso to condition 4 is acted up to in the present Nayar Sambandhams and Tiyan marriages. In fact they go further in this matter inasmuch as they prevent connection with any of those who are of the same Illam or Gens such as Kalliyatan, Chenicherri &c, among Nâyars of North Malabar, Perumbilâvil, Chengalath &c, in South Malabar, Nellikka, Valayamkuti &c, among Tiyans in North Malabar. This innovation will not at all be viewed with much favour by the Malayalis.

41. I would retain condition 1 in the modified form as below.

Neither party must at the time of the marriage have a wife or husband living provided such husband or wife has not obtained a legal divorce in the manner herein provided. I would retain conditions 2 and 3 *in toto*.

I would do away with the first and second provisos altogether. My reasons for modifying condition No. 1 are obvious; if the words husband in condition I mean only those who live in wedlock, and not those who live separate as divorced, the modification suggested by me would not be necessary. My reasons for omitting provisos 1 and 2 to condition 4, I have given in answer to question 40. The innovations intended thereby to be introduced are rather unsuited to the time. It would be time enough to introduce them when the public mind is sufficiently educated,

42. Any trivial cause is considered sufficient and reasonable according to social usage to dissolve a connection between a man and his wife among Marumakkathayists,—the extreme facility in severing it, affording a broad field for the selection of a cause. Adultery on the part of the wife is now-a-days invariably punished with nothing short of divorce; and cruelty and neglect on the part of either are also fruitful causes of divorces.

43. The existing usage as to the maintenance of Nayar wives and children is that till the death of the father, they are maintained by him if they live in the Tarawad house, or in a house specially built for them by him. After his death, they generally go back to their Tarawads, and Tarawad of the deceased father has then, generally, nothing to do with them. This is the custom in North Malabar.

44. As to the new rights accruing from a marriage registered under the proposed Act I have no objection to retaining the rights mentioned in sub-sections *a. b. c.* I would apply right (*d.*) only to wives. To apply it to husbands under the Act is to hold out a premium to such young men as are now maintained out of the Tarawad fund and whose earnings hereafter are at present considered as of right to recoup and swell that fund, to disinherit as it were, the Tarawad of their earnings; the result of such a provision would be that the highly conservative Karanavans of fatherless Anandaravans will directly abandon their duty of educating, or properly bringing them up. This would be disastrous to a large portion of the Malayalis now receiving education in the College and Schools. It would be time enough to bring about this much desired reform, when a large number of educated Malayalis become in their turn, Karanavans. The wording of the right (*d.*) should therefore be modified accordingly. I would have it as follows. "If a wife die intestate in respect of her separate or self-acquired property the said property shall devolve on her children born to her before or after such marriage (if any) in equal shares and failing them on the Tarawad," I would retain the right (*e.*) minus the words and sentence from "provided" down to "husband." We will for the present consider that the testamentary right in respect of separate or self-acquired property conferred thereby on a man, would be sufficient to induce him to make a suitable posthumous provision for his wife and children. This, it must be admitted is a thin end of the wedge in uprooting the Tarawad system. Public opinion in Malabar is not at present sufficiently educated to recognise the solemn and natural duty devolving on a husband for making a provision for his wife and children so as to introduce the right (*e.*) *in toto*. In speaking of rights (*e.*) and (*f.*), I would have the word "separate and self-acquired property" given an unequivocal and correct definition lest it may become a fruitful source of litigation. In this connection I may be allowed to remark here, that in the light of my opinion expressed above, the definition should be so framed as to make the expenditure incurred by a Tarawad in bringing up a man married under the Act, a legal charge on his self acquired property. Right (*f.*) will have to be in these circumstances modified. I would have it in this wise. "Property devolving on a wife, or her children by Will shall be deemed to be their self-acquired property" or if an exhaustive definition of the words "separate or self-acquired property" be framed, this clause (right (*f.*)) may be wholly omitted.

I may be allowed here to humbly make the following observations.

In the case of a divorce between a man and his wife married under the Act it should be laid down that it be effected in the simplest manner possible compatible of

course, with the solemn nature of the marriage-tie on the one hand, and eschewing the complicated procedure and undue publicity of the English divorce courts on the other.

The evils that attend the present marriage customs among Marumakkathâyists in Malabar, evils that appear revolting to the civilized world, may be summarised as follows. :—

(1) They have a tendency to make polyandry a recognized institution in some parts of Malabar.

(2) That this custom has engendered in the females “aught but virtue of a feeble growth” and therefore an inclination in them exists to form promiscuous connection, if not practice open prostitution (Nayars are taunted with the opprobrious appellation “ten father’s sons” see Dr. Gundert’s Dictionary page 608 coloum 2 against the word Pathu. See also definition of Kulastri and Parastri.) Concubinage of Tiyar women by Europeans in North Malabar is also in point.

(3) That those who want to be monogamous, and who would therefore exact faithfulness and chastity in their wives, are rendered helpless, in case these latter yield to temptation, to get the adulterer, or the enticer, punished under the Indian Penal Code as a Marumakkathayam wife is one, whose marriage is not recognized by law.

(4) That the so called husbands do not consider it a duty naturally devolving on them to maintain their wives and children.

(5) That the Marumakkathayists are now debarred from making valid disposition of their self-acquired property by will.

The provisions of a legislative enactment framed on the lines indicated by me in answer to questions 40 and 44 would, I humbly hope, tend to remedy all these evils, while they would not go to the other extreme of revolutionizing the whole social system in Malabar that has been in existence for more than a thousand years.

“Slow” must be the watch word of every social reformer.

“Some certain mean in all things may be found.

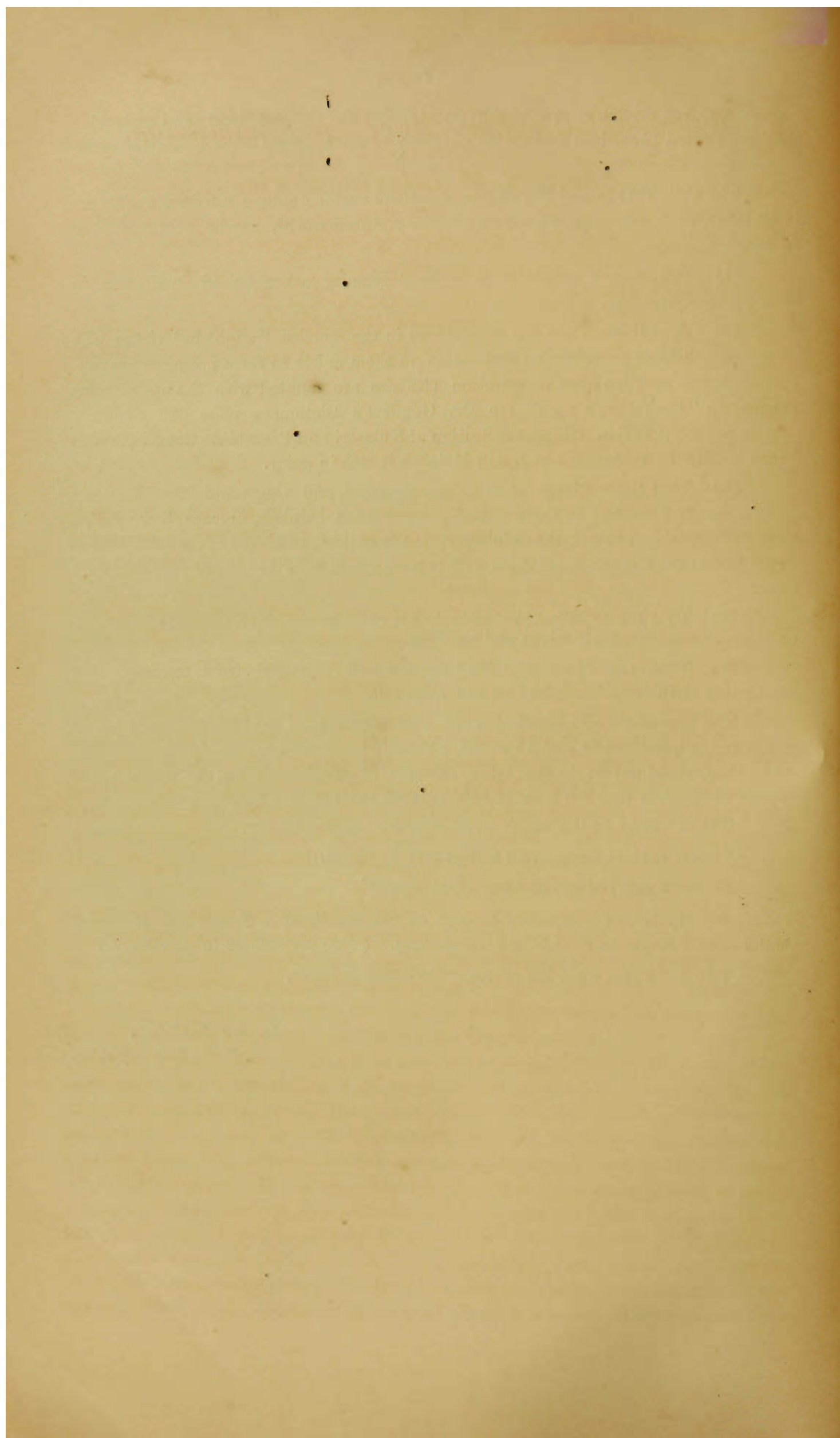
To mark our virtues, and our vices bound”

45. It is not customary to give in Sambandham a Nayar girl of North Malabar to a Nayar in Cochin and Travancore. (Vide my answer to question 7.)

I do not know what the custom is in South Malabar.

K. KRISHNAN,

Sub Registrar.



Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. P. GOVINDA MENON AVARGAL,

DISTRICT MUNSIFF.

BETUTNAD.

1. Yes.

2. No.

3. In cases similar to that which is given as an example. Chárnathu and Sûdra.

4. The woman will not be allowed to associate with her caste people on equal terms. The woman's house-people will also suffer the same penalty, if they allow her to live and mess with them.

5. The woman and children can in certain cases, be readmitted to caste by the performance of a Prâyaschittam, or payment of a fine that may be imposed by their caste people.

6. I believe it was the Korapuzha.

7. Nayars of South Malabar do not generally form Sambhandham in North Malabar, but Nâyars of North Malabar do form Sambandham with South Malabar females.

8. There is no absolute prohibition as far as I know, provided the Nayar is equal or superior in caste to the woman.

9. There is not the least objection, though they do not do so generally.

10. By reason of immemorial custom whose origin I am unable to trace.

11. It is a substitute for the marriage ceremony obtaining among Makkatâyam people, but it creates no conjugal rights, or obligations, and is therefore a mere mockery. Its performance, however, before the girl attains puberty is compulsory, the penalty for nonperformance being the virtual excommunication, or boycotting of the family to which the girl belongs.

Talikettu Kalyânam means, as the term clearly indicates, the ceremony of tying the Tâli which is the symbol of marriage and wife-hood. It is introduced by the ceremony of Ashtamangalyam at which the "Muhûrtham," or auspicious hour for the principal ceremony, is fixed. On the appointed day just before the Muhûrtham, the Manavâlan (or the man engaged to tie the Tâli) goes in procession to the Pandal erected and decorated for the occasion, and is seated. Immediately afterwards, the girl is carried by her brother in his arms, and seated by the side of the Manavâlan. The local astrologer or Kanisan, who is present by appointment, is then called upon to announce the Muhûrtham, and on his doing so, the Manavâlan ties the Tâli round the neck of the girl amidst the vociferous shouts and applause of the assembled crowd. It is followed by the reading of some auspicious verses from the Râmâyana which is generally done by a man of the girl's caste. The portion selected for recitation is, as a rule, the marriage of Râma and Sîta, a benediction being pronounced in the end by wishing the married couple such a long course of marital bliss and prosperity as was enjoyed by Râma and Sîta. After this the couple are taken back to a particular apartment in the house, and treated to a sumptuous feast. The festivities continue for four days and on the fourth day, the girl is washed, bedecked and

taken to the nearest temple to worship. The pomp and splendour of the ceremony, as also of the feast which is a necessary adjunct, varies in degree according to the wealth and social position of the family to which the girl belongs.

12. In the case of some divisions of the Nayar caste, such as Kiriya, Sudra, Vattēkat &c, the ceremony is performed by a man of the same caste division. In the case of certain others, such as Agathu Chârna it is performed by Nedungâdis. In all cases the Tâli-tier is called Manavâlan.

13. It is not the custom as far as I know. But it is usual, at least in South Malabar, to have a number of girls tied at the same time and place, by *different* Manavalans.

14. No, all I can say is that according to custom (which, of course, has the force of law) no such right exists.

15. No prohibition whatever.

16. I can't remember any at present, though I have a vague idea that there have been instances of the kind.

17. My belief is, that in all those cases in which the Manavalan belongs to the same caste division as the girl, she observes pollution. I know, as a fact, that in Kiriya, Sudra, and Vattēkattu divisions, pollution is invariably observed by the girl.

18. I believe so. But the cases in which it is done are extremely rare, and take place only when the girl's family is too poor and helpless to perform the ceremony in her own house, and is therefore obliged to take her to a Dâyadi house on the occurrence of a Kalyanam there.

19. Yes. There is nothing but custom to be pleaded in justification of this.

20. No formalities are *essential*. As a matter of fact, however, it is usual for the proposed connection, or Sambandham, to be formed with the approval of the Karanavan and other members of the girl's Tarawad, and of their relatives. The horoscopes of the parties are first consulted and compared, to see if the match would prove happy. A day is then fixed for the Sambandham to take place. Friends and relatives are invited for the occasion, and a feast is held in the bride's house. The bridegroom goes to the bride's house at about 8 o'clock, or a little later in the evening accompanied by a number of his friends. There they are received and welcomed by the males and females of the house. After dinner the bridegroom is conducted to the principal hall of the house. There the bride is presented to him by her uncle's wife, or some other female relative. Thereupon the bridegroom makes her a present of cloths. This done the girl retires. After a while, during which the bridegroom and his friends amuse themselves with music and conversation, and after the distribution of betel leaves and perfumed sandal, the bridegroom is conducted into the girl's apartment and they retire. This completes the ceremony.

21. The formalities are generally the same, the only difference being, that the feast for the bridegroom and such of his attendants as cannot eat in the bride's house, is prepared and served elsewhere.

22. Not quite. I cannot say that the formalities are the same throughout North Malabar. As for South Malabar, I believe they are almost the same throughout.

23. I am not prepared to say that she can, or that in any respectable family she would be allowed to do so. On the other hand, I do not think, that by so doing, she would, or could, be excommunicated.

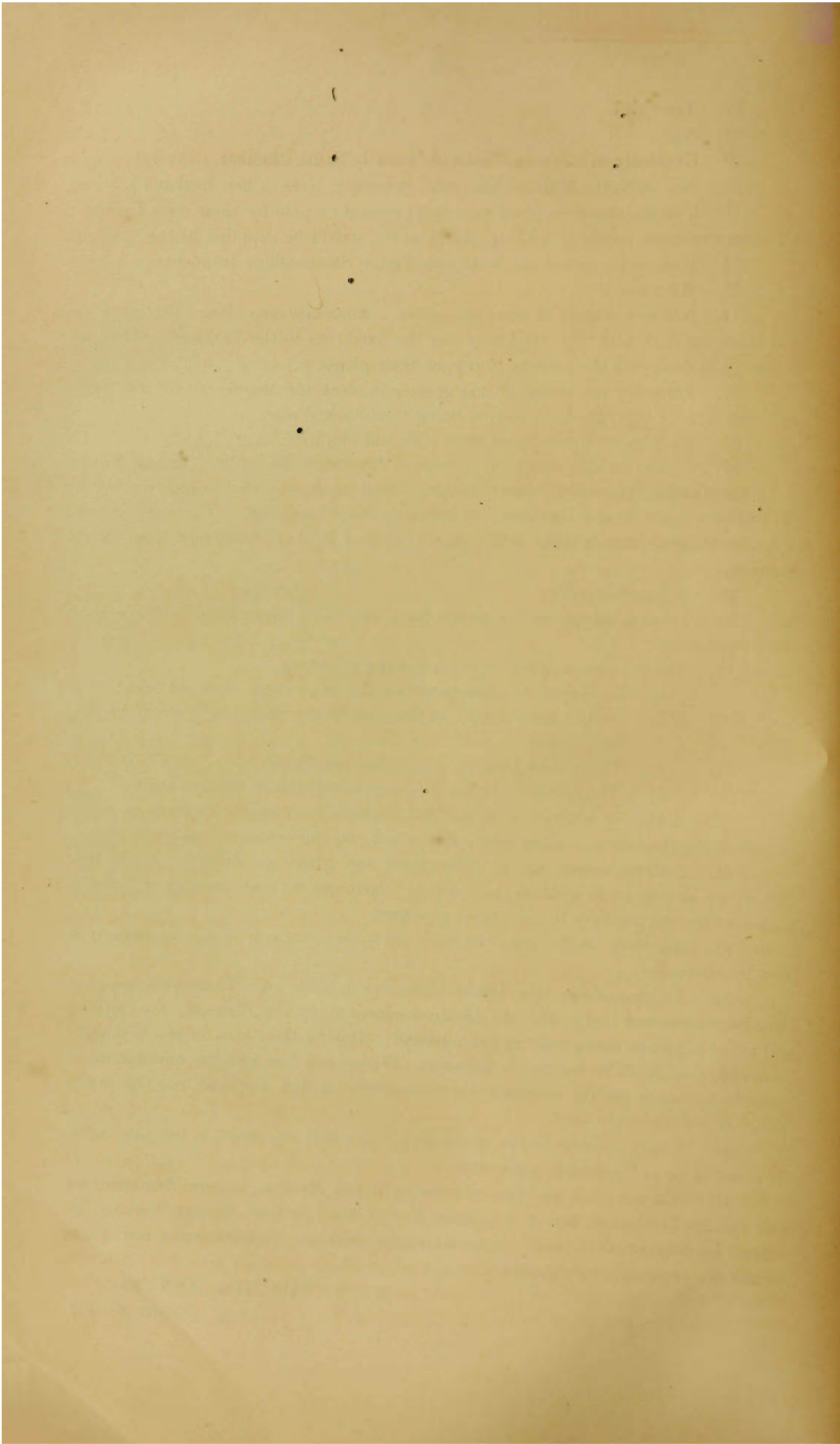
24. I cannot lay my hand on any rule of prohibition under a penalty.

25. She can.

26. None whatever.

27. Yes.
28. No.
29. Generally in her own Tarawad house in South Malabar.
30. No, in North Malabar the wife generally lives in her husband's house.
31. The maintenance (food expenses) should be paid by their own Tarawad. All extra expenses, namely, clothing, oil, betel &c, should be supplied by the husband.
32. It is by no means the *custom* to change Sambandhan frequently.
33. He does.
34. Not as a matter of legal obligation. Anandaravans often cultivate Tarawad lands for rent, and they need only pay the fixed rent to the Tarawad. They are at liberty to deal with the surplus if any, at their pleasure.
35. Formerly the tendency was greater to work for the benefit of the Tarawad, but latterly individual interest, is being more looked after.
36. They generally support their wife and children.
37. I have no idea about the custom of Tiyanas on the point. Among Nayers of North Malabar, the word *Putrāvākasam* is used to denote the property given by the father to his wife and children. It bears no other meaning. The word is used in South Malabar too in that sense, but I believe it was introduced from North Malabar.
38. None whatever.
39. I would retain the customary form and make registration evidence of its legal recognition.
40. The conditions differ in the following respects:—
- (1). In regard to Sambandham the injunction does not exist that neither party must, at the time of marriage, have a wife or husband living.
 - (2). There is no limit of age in Sambandham.
 - (3). The consent of guardian is not essential in Sambandham.
 - (4). In addition to prohibited degrees of consanguinity there is, in the matter of Sambandham, a caste restriction which the Bill seems to lose sight of.
41. I would retain all the restrictions and provisoes contained in the Bill, and would add to them a clause prohibiting marriages between persons of different castes which are contrary to the existing custom.
42. Adultery in the case of either party, and neglect, and ill-treatment of wife by husband.
43. As long as the wife and children live in their own Tarawad-house they must be maintained (fed), and the children educated, by the Tarawad, the clothing and other expenses being paid by the husband. During their stay in the husband's Tarawad, they must be fed by his Tarawad. When they live with the husband in his separate house, he should maintain them, and neither his Tarawad nor the wife's Tarawad is liable to do so.
44. I fully approve of the provisions in the Bill in regard to the new rights proposed to be derived from a marriage.
45. It is not usual for Nayers living in British Malabar, to form Sambandham with females of Cochin, but it is seldom, if ever, that British Malabar females are married by Nayers of Cochin. Intermarriages between Travancorians and Malabarians are extremely rare indeed.

P. GOVINDA MENON,
District Munsiff.



Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. V. KESAVA MENON AVARGAL,
SUB-ASSISTANT INSPECTOR OF SCHOOLS,
CALICUT RANGE.

1. Among Nâyars and higher castes, a man of admittedly superior caste may have Sambandham with a woman of lower caste, except in an Urâli Nâyar family.

2. The same liberty cannot at all be taken by a woman on pain of excommunication.

3. Sambandham between different divisions is altogether forbidden in the following cases:—

(a). A woman of 'Kiriya caste' cannot have Sambandham with a man of Sudra, Chârna, Vattekkad, Pallichân, or Anthûrân, caste, but a man can.

(b). A woman of Sudra caste cannot have Sambandham with a man of Chârna, Vattekkad, Pallichân, or Anthûrân caste, but a man can.

(c). Neither man or woman of Chârna caste can have Sambandham with one of Vattekkad or Pallichân caste, or *vice versa*.

(d). No member of Vattekkad caste can have Sambandham with one of Pallichân, or Anthûrân, caste or *vice versa*.

(e). Urâli Nâyars will not admit any other Nâyar than their own castemen.

(f). No male or female of any Nâyar caste can form Sambadham with a Velakkâthara Nâyar or *vice versa*.

4. Forbidden Sambandham will subject a man or woman to social excommunication; but a man will be pardoned if he discontinues such connection and undergoes a 'Prâyaschitham'.

5. In certain places among certain castes such Samhandham can be validated by a 'Prayaschitham'.

6. For caste purposes the recognised boundary between South and North Malabar is Kôrapuzha.

7. The men of South Malabar cannot form Sambandham with women of North Malabar, but the men of North Malabar can have Sambandham with women of the South.

8. No. Because North Malabar was once under Chirakkal Rajah who was an enemy of Zamorin, the Rajah of South Malabar. The dominion of the latter was overrun by Tippu Sultan in 1792, who converted many a Nâyar to Islam. The Rajah of Chirakkal then issued an order that no woman should cross the Kôrapuzha, lest she should be converted, and that no man of South Malabar should be admitted to a North Malabar family on the belief that all in South Malabar (including the Zamorin) had become converts to Muhammedanism.

9. Nayar woman of North Malabar cannot cross to the South of Kôrapuzha on pain of excommunication.

10. They are prohibited from doing so for no assigned reason except that suggested in para 8.

11. 'Tâli-kettu-Kalyânam' is a sham marriage ceremony, more or less on the lines of Hindu marriage ceremony performed according to the shastras, with this difference, that the person who ties the Tâli (the thread) does not become the husband of the girl. This 'tâli' is worn by the female for 27 days, that is, one lunar month and is broken on the 28th. The ceremony is not similar in form throughout Malabar, although the design appears to be the same every where.

Before attaining puberty, that is, at the age of 10 or 12, it is customary, nay, almost compulsory, for a Nayar girl to undergo this Tali-tying ceremony, so that this ridiculous but very expensive business takes place once in every twelve years. If some girls happen to flower before this ceremony is over, the fact is entirely concealed from the outsiders and the 'Tâli-kettu-Kalyânam' is performed with the greatest speed, followed immediately by 'Thirandu-kalyânam'. In a Nayar family there will be of course many girls of different age from 12 downwards, and all these will undergo the ceremony at one and the same time. The horoscope of the eldest girl alone is usually consulted, and whether it agrees or not, 'Ashtamangalyam' is fixed for a particular day, and on the next day is the 'Tâli-kettu-Kalyânam'. So far, North and South Malabar agree, I hear, in all respects.

In North Malabar the girls are seated under a pandal in a court-yard. A Nambudiri brings Kalasam (*i. e.* holy water) and sprinkles a few drops on these girls. Muhûrtham is pronounced by the astrologer, and instantly the Tâli is put round the necks of these girls. Tâli is put either by the princes, or by the Nambudiris. Formerly there were as many princes, or Nambudiris, as there were girls, but of late the number is reduced to one for many a girl. This is done with a view to reduce expenditure, as otherwise, all these men will have to be paid separately. The Rajahs or princes used to tie Tâli in the following families. (1). Pukkot Nambiar. (2) Nâluvittil Nambiar. (3) Pathillath Adiody. (4) Puthuppanath Vâzhunnavar. In all other families, the Nambudiri puts the Tâli, and the mother ties it on, and in a few others the mother ties the Tâli. Then comes a grand feast in which all people of the village, and other guests, are fed with a sumptuous meal. Hundreds of Nambudiris and Patters are also fed at an enormous cost, and the feast is generally continued for two or three days.

In South Malabar, however, Tâli is tied in the following cases.

1st. By the *Nambudiris* in the case of *Sthânîs* (men of title) and other great landed proprietors; one man is selected for many girls and is paid according to usage.

2nd. By *Nedungâdis* in the case of Charna caste. One man is brought for many girls and is paid according to usage.

3rd. By *Co-castemen* in the case of *Urâli* caste. The first two classes do not remain with the girls concerned on the days of the ceremony.

4th. By *Manavâlan* in the case of all other castes throughout South Malabar. This is most often resorted to. The *Manavâlan* must necessarily be aco-caste man. A *Manavâlan* is chosen for each girl separately according to the agreements of the Horoscope. He is not paid. He is brought fully adorned at the time of Tâli-kettu and

remains with the girl selected, for a period of 4 days, in a separate apartment assigned for these girls. This custom is not at all observed in North Malabar. The ceremony lasts 4 days, and great feasts are held on the first and the last day at enormous cost. In South Malabar, the Rajahs or princes do not tie Tâli as in North Malabar. In Palghaut and other places, there is a ceremony on the 28th day called 'Irupathettâm Kaliyânam' when the Tâli is either broken, or removed, from the neck of the girl and no vestige of it remains afterwards.

12. In North Malabar the Tâli should be tied on by a prince, or a Namburidi, or by the mother and by none else. The person who does it has no special name. In South Malabar it is done by a Nambudiri, a Nedungâdi, or a co-caste man. He has no special name in the case of the two former, but in the case of a co-caste man he is called a Manavâlan.

13. Except in the case of Manavâlan, or the mother, the Tâli is tied on a number of girls by one and the same man, and almost at the same time, devoting, say, one minute to each girl.

14. The man who ties the tâli does not thereby derive any right whatever to cohabit with the girl unless he proposes a real marriage (*i. e.* nuptial) ceremony with any one of the girls some time subsequently to the Tâli-kettu-Kalyanam. The prohibition may have originated from the following grounds.

First one man ties the Tâli to several girls. If he can cohabit with one he can as well cohabit with the rest, but they are all sisters and cohabitation is therefore forbidden. In some places Tâli is tied on by the mother.

Secondly. The girls are of such tender age, that is, from 1 month to 10 years, as to make cohabitation physically impossible.

Thirdly. There is often such a great disparity between the age of the girl and the Tâli-tying man that no match can fairly be contemplated, by the guardians of the parties concerned.

Fourthly. The Tâli tied by the man, is broken on the 28th day, so that another ceremony is rendered necessary for cohabitation.

15. There is no prohibition to a Manavâlan afterwards forming "Sambantham" with the girl on whom he tied the Tâli provided he is eligible in point of age, wealth and other external condition.

16. Yes. My sister-in-law is married to a man who was once her Manavâlan. But this practice is impossible in North Malabar and other places where "Tâli-Kettu Kalyânam" by a Manavâlan is not in vogue.

17. If a Manavâlan dies, there is pollution to the girl, but there is no pollution in any other cases. There is no pollution whatever in North Malabar; and in South Malabar, it is observed only among co-caste men by all the divisions of the Nâyars.

18. Tâli is tied on by the girl's mother in cases of all Tiyan families in North Malabar, and also in certain cases of Nâyâr families of North and South Malabar.

19. Yes. Every Marumakkathayam, girl must undergo the Tâlikuttu ceremony. There is nothing but custom to be pleaded in support of it. Perhaps it is a symbol of marriage according to Shastras, but it has been reduced to a most ridiculous extent by the Nambudiris to attain their selfish ends.

20. Yes. Further formalities are necessary for cohabitation.—I shall quote the words of my friend.

"In North Malabar some recognised form is frequently observed. When a young man attains a marriageable age, his father, or maternal uncle, looks out for a wife for him and with the approval of the majority of the members of the family, selects a girl from eligible ones. The father, or uncle, then goes in form to demand the horoscope of the girl, which is given, if the girl's family approve of the match. Subsequently, the father, or uncle, sends word that he will call on a certain day to fix a day for the marriage, and on that day, he accordingly calls with three or four respectable neighbours. An astrologer is also called to consult the horoscopes of the young man and the girl, and if they agree, a most convenient day is fixed for the celebration of the wedding. The father, or the uncle, who has gone there gives in the presence of the witnesses, the expenses, according to means, of the marriage feast to the girl's father or uncle, and after meals, which all partake of, departs. The young man has, by this time, invited his neighbours and friends, and on the appointed day having obtained the blessing of his elders, and having received from his father or uncle a certain quantity of money and clothes, proceeds in procession at night to the bride's house. Having arrived there, the girl is brought to the principal apartment of the house and is presented with the clothes and money, in the presence of some old neighbours, who have gone with the procession. After sumptuous meals all depart except the bridegroom. The next day the bride is formally brought over to the husband's house. Some ceremonies then take place. Such is the most accepted form, but it is very much reduced when the marriage is to take place a second or a third time, or when the man is of a higher caste than the woman."

All this is strictly observed in Palghaut, and other places of South Malabar, with this difference that the expenses of the marriage are not generally given to the girl's father, or uncle, and the girl is not invariably taken to the husband's house the next day. She will be taken either the next day or a few days subsequently. It is not the young man that invites his neighbours and friends, but some junior members of the Tarawād accompanied by a neighbour at the instance of the Kâranavan. In fact, the whole village is invited, that is, the village of the male as well as the village of the female. Every invited house in a village is bound to send a representative for the ceremony. The bridegroom starts to the house of the bride only after the distribution of betel leaves to the persons assembled, and the present of a few annas to each of the Brahmins who come there uninvited. The same ceremony, that is, the distribution of betel leaves and the present of money to the Brahmins is observed in the bride's house. In Palghaut there is a further ceremony of pronouncing a certain formula by one of the elders present on the occasion, when the procession has reached the bride's house. "Let———the son of———Ammah go to———the daughter of———Ammah for 6 months." If within these six months either party rejects the other, the elders will call the delinquents to account. In no other parts of Malabar is this formality so strictly observed. In South Malabar, the clothes are not given to the girl on the wedding day, but a few days subsequently. There is the practice of giving 16, 32 or 64 fanams to the girl the next morning after wedding, which perhaps answers to the North Malabar custom of the male's family defraying the expenses of the ceremony. The bridegroom should leave the house of the bride at about 5 in the morning, that is, before day-light, in the company of his friends and relations, to whom he should give Changâtipanam, (*i. e.* a present of a few rupees) before they disperse.

21. In Palghaut the same formalities are not observed when a Nayar lady forms 'Sambandham' with a Nambudiri or a Pattar. (a) The formula of 6 months

ceremony is entirely given up. (b) The presentation of money and clothes on the wedding day is not observed. (c) The formality of giving 16, 32 or 64 fanams to the lady on the next morning is not observed. (d) The lady is not taken to the house of the 'Sambandhakâran' as is most commonly done by the Nayars. (e) Horoscopes are not consulted and no feast given. In fact there is little or no ceremony except the mutual consent of the parties concerned and of the parents or the uncle of the girl. Some three or four men will generally accompany the Nambudiri or Pattar to the house of the bride and after the distribution of betel leaves they leave the place leaving the Nambudiri or Pattar in the bride's house.

The distribution of betel leaves and areca-nuts appears to be a *sine qua non* of a wedding ceremony in a Nayar family in South Malabar whether the Sambandhakâran is a co-caste man or one of higher caste.

22. I hear that the formalities are not the same in North and South Malabar.

(a) The formalities appear to be the same throughout North Malabar.

(b) But in South Malabar there is no uniformity.

23. A woman cannot have a recognised Sambandham with as many men as she likes.

24. It does not appear to have been prohibited; on the contrary, it appears to be a law of Parasu Rama, according to 'Kêralôlpathi' edited by the Missionaries.

25. If a man or woman wishes to terminate the Sambandham they can do so without any difficulty.

26. No formality is necessary to dissolve the connection.

27. A man can have Sambandham in more than one house at the same time.

One * * * * has four women as his acknowledged wives; but in South Malabar it is not so openly done.

28. If he choose to do so, there is nothing to prevent for aught I know.

29. In North Malabar the woman in most cases lives with her 'Sambandhakâran' but in South Malabar the woman generally sleeps and takes her meals in her own house.

30. The custom is not the same in North and South Malabar as stated above.

31. In North Malabar the woman and her children are supported by her Sambandhakâran, but in South Malabar, it is not so done except in cases of great Jenmis and Officials.

32. It is not an invariable rule for a man and a woman to cleave together for life. It is left to the will and pleasure of each individual.

33. If a woman lives with her Sambandhakâran, he as a rule, feeds and clothes her.

34. If 'Anandaravans' work for the Tarawad, no special allowance is made to them by the Kâranavan. They sometimes cultivate the Tarawad land for a rent but in the majority of cases, they are not trusted, and Tarawad land is not given to them.

In case where the land is given, a certain pattom, (rent) fixed by the Kâravan should be given, and the surplus, if any, may be dealt with at their pleasure.

35. Anandaravans do not generally work for the Tarawad. They try to earn something for their 'Mêlchilavu' (extra expenses) which is not generally defrayed by the Karavan.

36. With their earning they, of course, support their wife and children. They do not hand over their earnings to the Karavan.

37. In North Malabar, there is often a bestowal of landed property to the

wife and children during the life-time of the man. It is a gift. The property after his death goes by the name of 'Puthrâvakâsam'.

Even in South Malabar, landed property is given to the wife and children during the life-time of the man; but it is not generally as a gift. The property is generally purchased in the name of wife, or her brother, to avoid law-suits after his death.

38. So far as I have thought over the matter, there is not the slightest objection to providing a permissive marriage law. It will considerably improve the social, the moral and the intellectual condition of the Nâyars, and will remove the slur that is now cast on them.

39. I would prefer to retain the customary form and make registration of the marriage evidence of its legal recognition, unless a special marriage Registrar be appointed for each village.

40. The conditions of a valid marriage differ considerably from the 'Sambandham' recognised in practice.

According to present usage the marriage will be recognised:—

(1). Even if the man at the time of the marriage, has a wife living.

(2). Though the age of the woman is less than 14.

(3). The consent of the legal guardian, that is, Karanavan, is not very material to the recognition of the marriage if the parents arrange for the same, unless the Karanavan is a great man in the Tarawad.

41. I have nothing to add to, or to omit from, the conditions stated.

42. According to social usage, the following, as contained in a slokam, are believed to be the reasonable grounds for dissolving a Sambandham:—

"If a woman is of a quarrelsome nature, or steals her husband's property, is favourably inclined to or serves other men, or takes her food before her husband, or frequents another's house, she should be divorced even though she has borne ten children to him."

43. The Nayar wives and children are maintained by the Karanavan if there be family property. If not, they are left to themselves to eke out their livelihood in the best way they can. Even if there be family property, 'mélchilavu' (pocket money) is not given to them.

44. The new rights proposed to be derived from a marriage are calculated to do immense good to all the Nayar families. Children will be properly educated, the hereditary lethargy of the Anandaravans will cease. They will at once work for the wife and children; the condition of the wife will be improved; from a state of abject slavery and utter ignorance, she will rise to be a good housewife, a tender and careful mother and an affectionate wife; poverty will be greatly minimised. Discord and dispute now rampant in almost all Tarawads will cease, because the wife and husband will necessarily live apart by themselves; and litigation against the Karanavan will be greatly reduced after some time.

45. 'Sambandham' is customary between the Nâyars in British Malabar and those living in Cochin and Travancore.

(Signed) V. KESAVA MENON,

Sub Asst. Inspector of Schools

Calicut Range.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. K. DAMODARA MENON AVARGAL, B.A.

1ST GRADE PLEADER,

PALGHAT.

1. Yes.

2. No.

3. Between any two of the following divisions (1) Vattekat (2) Pallichan (3) Attikurissi (4) Andur and (5) Kolangara. It is also forbidden between Sudra (ശൂദ്ര) and Charnath (ചാൺത) divisions, and between Charnath (ചാൺത) and any other division excepting Kolangara (കളങ്കര). In these days, however, instances are not wanting in which some of the lower divisions have allowed their women to be taken as wives by men of the other divisions, especially when they happen to be rich men, or officials. There is another class of Nayers, who do not belong to any of the recognized divisions, but call themselves as belonging to one division or the other. They deviate from the ordinary rule according as convenience suggests.

4. Formerly such Sambandhams invariably subjected the parties to social ostracism, *i. e.* they were prevented from touching wells and tanks, entering temples, mixing with the rest of the community on all public occasions, and being deprived of the services of the village barber and washerman. In these days, especially in British Malabar, this punishment is not strictly enforced. In most cases they are not publicly noticed, and when they are, the punishment consists in the parties being expelled from the caste divisions *i. e.* they can't mix with their own caste people.

5. No. But the parties could be retaken into their respective caste divisions.

6. The Korapuzha.

7. Not as a rule. But there are instances in which Nayers of North Malabar have formed Sambandham with Nayar women of South Malabar.

8. No, probably because the women of North Malabar cannot cross to the South of the Korapuzha which they will have to do if Nayers of South Malabar are allowed to have Sambandham with them.

9. No.

10. I can't say in what this prohibition had its origin. I have however heard that when, during the time that North and South Malabar were under their respective Native princes, some of the women of North Malabar crossed to the South of the river, certain servants of the Zamorin then reigning in South Malabar dishonored these women, and when the matter was reported to their king, he ruled as their political and social head that thereafter the women of North Malabar should not cross

to the South of the river on pain of social ostracism, which was calculated to effectually prevent them from doing so. But whatever may be the origin, there is now nothing but blind custom to be assigned as its reason.

11. This is a ceremony performed upon a Nayar girl before she attains the age of puberty, or at all events before she forms Sambandham with a man. When a girl, or the eldest girl, in a Nayar house is about to attain puberty, an auspicious day is fixed for the ceremony, and the villagers, castemen and women, relations and friends are invited to it. According to the directions given by the village astrologer, a bridegroom is selected from her own caste division by villagers and castemen. He is brought down and kept in another house in the village. When the auspicious hour is about to arrive, the bridegroom is brought to the house, the girl is brought out and deposited on a heap of rice prepared in the pandal specially erected for the purpose, and at the auspicious hour the bridegroom ties the Tâli on the neck of the girl. This over, the bridegroom and bride are taken to the room specially reserved for them, and which is spread over with വെള്ള (new cloth) and കരിമ്പടം (cumblie). The couple are generally to pass their time for 3 days in that room. On the 4th day, about noon-time, they are taken to the village tank in a grand procession and are brought back after bathing in the same manner. After this, comes the sumptuous dinner of which all present partake. At night, the couple are taken to the family kitchen which they were prohibited from entering during the 3 previous days, and there they take their meals together. This is called കലംതൊട്ടുകല്യാണം (Kalam thotta kalyanam). After this ceremony, the bridegroom is made to give the bride 2 fanams, or half a rupee in token of his having divorced her, and from that moment neither party has any claim upon the other. On the morning of the 5th day, the bridegroom and his party are sent back home with some presents. The Tâli is not removed soon after divorce, but remains on the neck of girl till the 28th day, when it is ceremoniously broken.

12. The Tâli is tied by a bridegroom selected from amongst the men of the same division of caste to which the girl belongs, except in the case of the Nayars of ചാന്നത (Charnatha) division. In this case, and also in the case of certain aristocratic families, and families who have no Enangans, the Tâli is tied by a man of the Nedungâdi caste or by a Kiriyaathil Nayar. The bridegroom is called in Malayalam മണവാളൻ or മണാർ പിള്ള (Manavâlan or Manârpilla) which is a contracted form of മണവാളർ പിള്ള (Manavâlarpilla).

13. Yes, in all cases in which the Tâli is tied by a man of a superior caste.

14. The man who ties the Tâli does not thereby obtain a right to cohabit with the girl, except perhaps for the 3 or 4 days that they are together in a room. But cohabitation does not as a rule take place, probably because the girl is then not fit for it.

On the night of the fourth day of the Kalyânam the man divorces the woman, and the reason is therefore plain why he cannot thereafter cohabit with the girl,

15. None.

16. Yes.

17. There is pollution. But it is not observed throughout Malabar. Nor is it observed in cases in which the Tâli is tied by a man who is outside the caste of the girl, i. e. by a man who is not an "Enangan."

18. Yes.

19. Yes, except in some parts of the Cochin State where it is only compul-

sory to have the ceremony performed before she forms Sambandham with a man. It may be after puberty.

None except that it was a ruse on the part of the Nambudries to have the business done before the girl was fit to love the man who tied the Tâli and cleave to him thereafter, and thereby defeat their object in introducing the divorce no sooner than the Kalyanam was performed, *i. e.* freeing the girl from the claims of another man.

20. Before she consorts with a man, the formalities of what is called "Sambandham" must be gone through. They are the following:—

The man, or rather the Karanavan of his Tarawad, sends two men from the village to the Tarawad of the girl to propose the Sambandham. If that is accepted, a day is fixed for the ceremony and the villagers come away. On the appointed day, the villagers are invited and out of them a decent number accompany the Sambandhakâran to the Tarawad of the girl, where the villagers of the girl await the arrival of the Sambandhakâran and party. After their arrival betel leaves, areca nuts and tobacco are freely distributed to one and all present. The Sambandhakâran and his companions are sumptuously fed, and after assembling in a hall, the companions of the man call to the hall the senior lady in the Tarawad, and one of them asks her formally "May not such-and-such a man have hereafter Sambandham with such-and-such a girl," or woman as the case may be, giving the names of the mothers, and the house names, of the parties. She answers "Yes". After this they leave the hall and retire to bed. Thereafter the ladies of the house visit the Sambandhakâran in the room, and after forming his acquaintance and enjoying a short conversation with him, they also retire leaving the man to await the coming in of the girl, or woman, as the case may be. After they come out they ask the girl or woman to go in, which being done they also retire to bed. After the girl goes in the man gives her what is called "സമ്മതപണം" (money to purchase her consent) which she accepts. Sometimes this is postponed to some other day. But in such cases the man is not allowed to remain in the house of the woman during day-time and he is not allowed also to take his meals there. Nor can the woman be taken to his house without giving the money.

21. When the Sambandhakâran is a Nambudiri or a Pattar, the Sambandham is not performed in a formal manner. He comes to the house of the girl, or woman, alone, or with some friends, on the day appointed in consultation with the member of the girl's or woman's house. The villagers need not know anything about it nor is it done ceremoniously. The only compulsory thing is that the Sambandham should take place with the knowledge of the girl's house-people.

22. No. But there are a good many things in common between Sambandhams in North Malabar and Palghaut Taluk.

I don't know.

No. In some places in South Malabar it is done much in the same way that it is done when the Sambandhakâran is a Nambudiri or a Pattar.

23. Not in these days except in some parts of Malabar, viz, portions of the Walluvanad Taluk, Shoranore, Chelakara and Vengaloor in Cochin State &c.

24. This is not prohibited. On the contrary it was allowed in former days. Now-a-days Malayalis are becoming more and more humanized in this matter and the practice may be said to have almost gone out.

25. Yes.

26. The old rule is that the husband should go to the house of the wife with two villagers, call her out, give her two fanams and tell her she was no more his wife. Now-a-days even this formality is not observed.

27. Yes. But it is not considered quite proper and generally it is not done.

28. None except that it does not meet with approval from the public generally. It does not subject him to any penalty.

29. & 30. In North Malabar, the woman sleeps and takes her meals in the house of the Sambandhakâran during his life time. In South Malabar, there is no fixed rule. She may take her meals and sleep either in her own house or in the house of the Sambandhakâran. In the Southern part of the Cochin State she does not generally live with the Sambandhakâran in his own house. But she lives with him in her own house or in a house of his own where his Marumakkathayam relations do not live.

31. In North Malabar he should. In South Malabar, he is not bound to feed them except when they are in his own house. But he should give them all the other necessaries. The rule in olden days was only to give them cloth and oil.

32. It is the rule for one man and one woman to cleave together for life.

33. He does feed and clothe them.

34. Yes; in proportion to the means of the Tarawâd, and just enough to enable him to meet the expenses of himself and his wife and children.

Yes.

Yes.

35. Generally Anandiravans do not work for the Tarawâd. They either take Tarawâd lands on rent, or try to earn something for themselves otherwise.

36. With their earning they support their wives and children and also their nearest Marumakkathâyam relations. They *never* hand over their earnings to their Karanavan.

37. I don't know.

None that I know of.

38. None.

39. I would prefer the former provided that the formalities of a Sambandham obtaining in North Malabar, or Palghaut, are observed in all cases whether the Sambandhakâran is a Nayar, Pattar, Nambudiri, or of any other caste or division. If the latter is enforced, the Act will become practically a dead letter. The idea of saying to the husband "I take thee as my husband" in the presence and hearing of the Registrar and witnesses will be quite repugnant to the feelings of the women generally, and of the maidens in particular.

40. To begin with, a Sambandham can take place only (1) between parties both of them following the Marumakkathâyam law of succession, and belonging to the same division of caste, or divisions of caste between which Sambandham is allowed, or, (2) between parties of whom the woman belongs to the Nayar caste and the man to the Pattar, Nambudiri or other superior caste.

Condition (1) At the time of the Sambandham the woman must not have a Sambandhakâran living but the man could have a Sambandhakâri living.

Condition (2) There is no rule regulating the age of the parties. The only rule generally observed is that the man must be older than the woman.

Condition (3) Generally both parties obtain the consent of the Karanavan, and the other members of the Tarawâd, whatever be their age. But instances are many in which the man forms Sambandham without the consent, and sometimes even going against the will, of the Karanavan and the other members of the Tarawâd. In the case of women, such instances are rare. There is however nothing to prevent them from doing so if her nearest relations sympathise with her, or if the match is a proper one in other respects.

Condition (4) Sambandham cannot of course take place between persons related in the manner referred to in the 2nd Proviso. It cannot also take place between members of the same Tarawâd, however removed they may be, and also between persons either of them belonging to a deceased husband's or wife's Tarawâd.

41. (1) I am not for marriage being solemnized under the Act between parties who cannot according to the custom of the country form Sambandham between them. Because if marriage is allowed between any Marumakkathâyam Hindu and any Makkathâyam Hindu, a Nayar woman may validly marry a Tiyan or Chetty &c., or a Nayar man may validly marry a Brahman lady &c. This will be introducing quite a radical change in the customs and manners of the country which is calculated to hurt the religious and other feelings of the people, and to create a great deal of confusion in the families of the parties, and in the society to which they belong. I have, however, no objection to marriage taking place between parties both of them belonging to the Nayar class, 1stly because such Sambandhams obtain even now amongst Nayars in some parts of the Cochin State, and 2ndly, it is very desirable to break down the very thin barriers existing between the several divisions of the Nayar caste in view of a larger field being afforded for selection, and also in view of the fact that there cannot be any religious objection to it, or any other objection except local prejudice and party spirit.

(2) I am also not for marriage being allowed between members of the same undivided Tarawâd however removed they may be, so long as the rule of impartibility of property lasts, because 1stly such marriage will be repugnant to the feelings of the Malayalis generally, and 2ndly if such marriages are allowed, there will be at one and the same time in the same Tarawâd one's own wife and children, as well as Marumakkathâyam relations, and it will be simply impossible that they can pull on together amicably. Nor can we expect the man who has his wife and children in his Tarawâd to treat all the Tarawâd members with impartiality. Even now there are very few families where discord does not reign between the several branches, owing chiefly to the Karanavan (manager) favouring his own branch to the prejudice of the others. If one's own wife and children also happen to be members of the same Tarawâd, it will be simply aggravating the already chaotic and unfortunate condition of Malabar Tarawâds. I may also mention here that there are now many undivided Tarawâds in which there are members who are not related to each other within degrees of relationship prohibited by the 2nd Proviso to question No. 40.

42. The only reasonable ground for dissolving a Sambandham is the adulterous conduct of the woman, or the man having formed another Sambandham. If the

Tarawâd of the parties are at enmity with each other, it is also considered to be a sufficient ground. But this is gradually going out.

43. The man is invariably bound to give his wife and children all necessities except food. But when the Tarawâd of the wife and children is too poor to feed them, or when the wife and children are residing with him in his own house, the man is bound also to feed them.

44. Clause (b) I would add the following proviso to the clause:—"Provided that when they live in their own Tarawâd they are not entitled to claim the feeding expenses from the husband."

Clause (c) Instead of the last sentence in this clause I would have the following:—"In such cases the guardianship shall vest, in succession, in the father, mother, the nearest adult male member, and lastly in the head of the Tarawâd."

Clause (d) I am only for half of his or her separate, or self-acquired, property devolving on the survivor and children in equal shares, the other half devolving upon his or her nearest Marumakkathâyam relations in equal shares, the nearest in blood postponing the more remote, *i. e.*, upon his or her mother, brothers and sisters in equal shares, in their absence upon his, or her, nephews and nieces in equal shares and so on. In the absence of the wife, or husband, and children the whole property shall devolve upon nearest Marumakkathâyam relations in the manner described above, and in the absence of Marumakkathâyam relations, the whole property shall devolve upon the survivor and children.

I suggest the above modification in the devolution of property as regards Marumakkathâyam relations because, so far as my experience goes, the generality of Malayâlis are of this opinion, and I am not aware of a single instance in which a Malayâli, who has near relations in the Tarawâd, has handed over his or her earnings to the Karanavan, or wished that they should lapse to the Tarawâd on his or her death.

I may also observe here that the provision that the whole property shall devolve upon the survivor and children is likely to prevent many a Malayâli from solemnizing his or her marriage under the Act lest it should wound the feelings of, and estrange him or her from, those who according to the existing law and practice are the persons to benefit by his or her self-acquisitions, and whom he or she has learnt to regard from childhood with great affection. Changes must be gradual in order that they may be acceptable. The suggestion that I have made here is in accordance with the practice now generally obtaining among Malayâlis and it would simply legalize the existing practice.

Clause (e) I would add "and the wife for her children" after the words "wife and children" in the first sentence. I would also add the following to the whole clause:—"If the husband omits to make sufficient provision for his wife and children, or the wife for her children, for sufficient reason, which shall be stated in the will, it shall be valid."

45. It is customary between the Nayars in British Malabar and those living in Cochin.

K. DAMODARA MENON.

16th May, 1891.

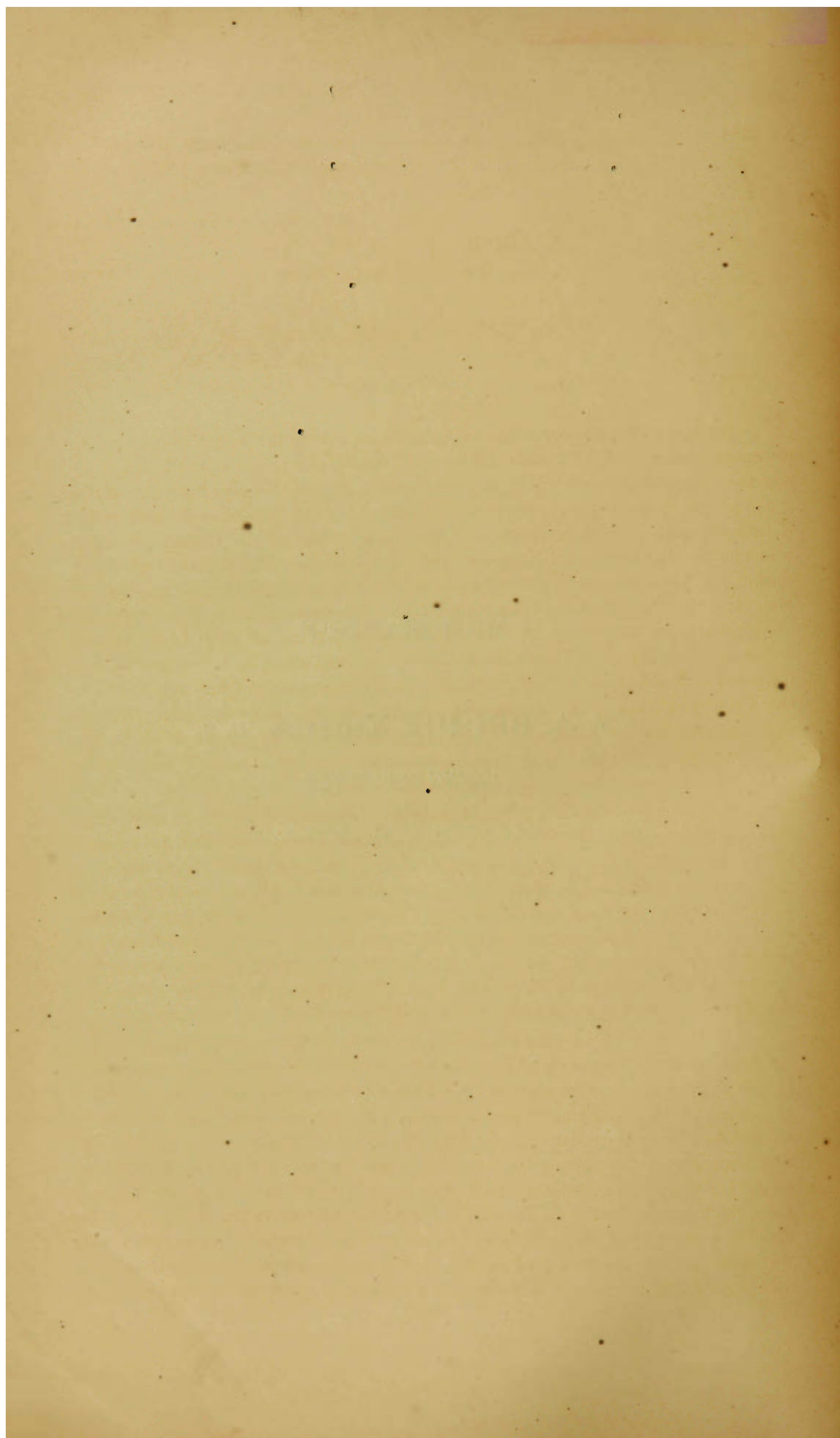
MEMORANDUM

BY

V. A. BRODIE ESQUIRE, C. S.,

ACTING COLLECTOR,

SOUTH CANARA.



No. 2384.

SOUTH CANARA COLLECTOR'S OFFICE,
Mangalore, 19th June 1891

FROM

V. A. BRODIE, ESQUIRE, C.S.,
Acting Collector of South Canara.

TO

H. M. WINTERBOTHAM, ESQUIRE, C.S.,
*On Special Duty,
Malabar Marriage Commission, Calicut.*

Sir,

In reply to your letter of the 11th April last, I have the honor to state, with reference to para 3, that (if made law for the District of Malabar alone) I cannot see how the proposed measure will in any way benefit, or prejudicially affect, any section of the people of this District, except the inhabitants of the Nileshwar division of the Kasaragod taluk (i.e., of that portion of the taluk South of the Chandragiri river which formed the traditional Northern boundary of ancient Malayala, and which, by custom, no Nayar woman is allowed to cross.) The inhabitants of this division are Malayalis, their language Malayalam, and such castes amongst them as do not follow the Makkatâyam law observe the Marumakkatâyam. Many of them have relatives and property in North Malabar also, and as the bill will affect the latter directly even if limited to Malabar, it will indirectly affect these Marumakkatâyam inhabitants of the Kasaragod taluk. As the people of Nileshwar division have the same language and observe the same customs as the people of Malabar, not of the people of the rest of Canara, if the proposed measure is made law for Malabar it should therefore be made law for that portion of this district also.

2. In reply to para 4, I beg to state that symptoms of revolt are everywhere observable against the custom in question, not only amongst the educated, but amongst all classes following the "Marumakkatâyam" and "Aliyasantâna" laws, which in these respects resemble one another, and the custom is not only one of the principal sources (perhaps the chief source) of civil litigation in the District, but a fruitful cause of the gravest possible crimes against the person. A way of escape from these customs must consequently, it is clear, be welcome to the many, who now devote their energies to evading it, or suffer without hope of legal redress by it. On grounds of morality alone there are also many who consider measures of reform necessary.

3. In para 5 I have been asked for my views on the matter though I have not been favored with a copy of the proposed measure. I have however been recently able to get a manuscript copy, and what has struck me most upon a perusal of it is the extent to which existing custom is ignored and departed from, which is surely inadvisable as likely to render recourse to its provisions unpopular. The Hon'ble Mr. Sankaran Nayar desires to raise the status of the Marumakkatâyam woman by enabling her to become something better than a mere concubine, to give the husband the right to exact chastity on the part of his wife; and to give the woman and her children a claim upon the husband and father for maintenance, and these are in every way most laudable desires and, I believe, objects against which the most bigoted conservatives would not raise a very strenuous resistance, provided the parties to the

contract themselves were desirous that this should be so ; but surely the most judicious method of effecting this is not to pose as a new lawgiver superior to and superseding Parashurâma, but, taking existing law and custom as he finds it, to modify it as little as possible and only where absolutely necessary.

4. Turning to the bill itself I am of opinion that the preamble is misleading for surely there is some kind of form of marriage now observed (in addition to the Tâli tying ceremony which of course is no marriage at all,) and it seems to me that it would be better, as the law has declared this not to amount to a valid marriage, to devise some way of legalizing it with the least possible change of ceremonial and custom than to prescribe an altogether novel marriage ceremony.

Again though a Marumakkatâyam wife is in the eye of the law only a concubine, under the general law of the land, both Civil and Criminal, which overrides all customs, I know of nothing to prevent her at present like any other concubine suing for and obtaining maintenance for her children though not for herself.

5. Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17.—Surely these are all unnecessary, for no such formalities are prescribed in the case of Christians, Mahomedans and other Hindus. If it is intended that to make a marriage legal, notice must be given to the marriage registrar, surely it would suffice to declare that every Marumakkatâyam marriage shall be legal and the provisions of the Act applicable to the parties thereto, provided a notice of the marriage signed or marked by both parties, or their guardians where they are under age, (section 4 (2) I think unnecessary) and attested by at least two witnesses, is presented within one year of the marriage to the marriage registrar. Again where a wife leaves the Tarawâd house and goes as a wife to her husband's house, *ipso facto* this might be held sufficient evidence of the intention of the parties to constitute marriage as it is contrary to custom, and is more than was held sufficient until recently to constitute marriage in the highly Christian country of Scotland.

6. Sections 19 to 28—Section 22 is certainly far too great an innovation upon custom. Notice to the marriage registrar after 6 months absence on the part of the husband should suffice, in addition to whatever formality (if any) is now observed.

All these sections however appear to me to constitute far too great an innovation upon existing custom and more than is necessary to secure the 3 objects (which I believe are all the majority of the people want) which I have enumerated in para 3 as desired by Mr. Sankaran Nayar. If a Muhammadan can divorce his wife on repayment of her dower I would not make divorce more difficult among the Marumakkatâyam people, who are now much more lax in this respect. There are probably existing customs, or formalities, of some kind and it should suffice to modify them and not be necessary to devise a new Law. At the first at any rate I would not make it difficult for either party to obtain a divorce, and leave it to the growth of public opinion hereafter to demand greater stringency.

7. Sections 29 to 33. I should hardly think such provisions now demanded by the public. Divorce at the will of either party seems to constitute a sufficient remedy, nor does this seem a very immoral thing to allow, for the divorce laws of some of the States in the United States of America appear to be pretty comprehensive and it does not seem necessary to apply stricter laws than the laxest of these in this instance.

8 Section 34 (a). I would limit this to cases in which the wife and children live with, and under the protection of, the husband—not in the Tarawâd house. In the

latter case the law would lead to endless confusion. In the Tarawâd house the authority of the Kâranavan must remain as at present absolute, but a married woman may be allowed to leave her Tarawâd house (taking her children with her) for her husband's at any time, if she so desires, without losing her rights to maintenance etc. in her Tarawâd.

9. *Section 34 (c)* Should only apply to cases in which the widow is not living in the Tarawâd house.

10. *Section 34 clauses (d) (e) and (f).*—These seem to be unobjectionable, for, as a man and woman can during their lifetime do as they please with their own self acquired property, it would be no violent innovation upon custom to declare that a man and woman, who contract a legal marriage under the Act that may be passed, *ipso facto* express the intention of bequeathing their self-acquisitions to their wife or husband as the case may be, and their children in the proposed proportions. Family property of course would not be affected.

11. As to whether these reforms should be extended to the Aliasantâna castes of this District I am certainly of opinion that they should, and believe that they are more desired by them than by the Marumakkatâyam people of Malabar, for, their customs are more consonant with Western ideas of "marriage" and the dictum of the High Court in Special Appeal No. 238 of 1868 (M. H. R. Vol. IV page 203) that the relation of husband and wife under the Aliasantâna system "is in truth not marriage but a state of concubinage into which the woman enters of her own choice and is at liberty to change when and as often as she pleases" and although women in Canara do "in some instances live with their husbands, still there is no doubt that they do so of their own free-will and that they may at any time rejoin their own families" appears to have come upon the country as a surprise, and is by no means generally acquiesced in as correct by the people.

12. There appears too to be evidence of a more general inclination to revolt against the existing custom, for so long ago as 1869 a memorial numerously signed by members of the Aliasantâna castes, was submitted to the Collector for transmission to Government (a copy of which is attached to the reply of Mr. Ramaya Punja to your queries) which went very much further than the proposed measure for Malabar, for what the memorialists desired was no modification of the Aliasantâna system, but its complete abrogation and supersession by the Makkalsantâna system, or system of descent from father to son, on the ground the Aliasantâna law was an obstacle to their "advancement and prosperity in life and a constant source of contention in families." This petition was not transmitted to Government by the Collector for, on referring the proposal through Tahsildars to 2069 Aliasantâna members of society, 525 voted for the proposal, 465 were indifferent as to whether the proposal were adopted or the Aliasantâna system retained, and 1079 voted in favour of the retention of the Aliasantâna system. These figures were regarded by the Collector as proving the majority of the people opposed to the proposal, and on this ground he refused to transmit the memorial to Government. Whether or not the majority now in 1891 would be against the proposal I do not know, but even if it were, there can be little doubt it would be a reduced majority.

13. Between the custom of those who follow the Aliasantâna law and those who observe the Marumakkatâyam—at any rate in South Malabar—there is a very considerable difference. The senior male member is not always the manager or

Ejamân of the family, as the senior male member is always Kâranavan in Malabar, but on the contrary the Ejamân is more generally the senior female. There is a regular marriage ceremonial, and after marriage the wife leaves her own family house and resides with her husband in his; whereas in Malabar under the Marumakkatâyam system the wife does not usually reside with her husband but both parties continue to reside in their Tarawâd houses, and the husband is only a visitor at his wife's Tarawâd house. Till the death of the husband the wife and children live with him and join in the work of cultivating the fields of his family estate, like the other members of his family, and are maintained out of it by him; so that the death of the husband when the widow and children have to leave everything behind them and return to the family house of the widow, effect a much greater change in their position than in Malabar, where the wife and children, as a rule have, never left the Tarawâd house and have all along been maintained, not by the husband, but by their Kâranavan. Lastly a woman is presumed and in practice expected to go through some form of divorce, even in the lowest castes, before leaving her husband and taking up with another man, and even the re-marriage of a widow, or divorcée, is accompanied by some public ceremonial, viz., a feast to which the relations are invited and at which the couple sit side by side. Finally the children and widow observe pollution (Sûtaka) on the death of the man, and I am not sure that this is the custom in Malabar.

14. The statement of the High Court in Special Appeal 238 of 1868 that the wife in Canara "in some instances" resides with the husband, has since been modified by it (I. L. R. VIII Madras 353) in *Devu versus Deyi* (Second appeal 322 of 1884) in which it is stated that marriage is not a legal institution though the women of Canara "unlike the women in Malabar often leave their family houses and reside with their husbands," and even this scarcely states the case correctly, for they do so almost invariably—it is not the exception, but the rule. For my statement that some sort of divorce is commonly gone through, and the marriage expenses, or at any rate the husband's gift at marriage ("Thirdôchee") returned before a divorce is supposed to be complete, I rely upon the account given by Mr. Ramaya Punja B.A. B.L., of the Aliyasantâna custom in this respect in reply to your queries, and would also quote 2 criminal cases that have come before me during the short time I have served in this District. In the first case the complainant—a fisherman, or very low caste man—complained of another for enticing away his wife from his house, and argued that he was entitled to redress under Section 497 of the P. C. as his wife had not returned first from his house to her family house, and his gift at marriage "Thirdôchee" had not been repaid him according to custom. In the second a woman contracted a liaison with another and returned to her family house. Her husband and her uncle followed and demanded either the girl, or the marriage expenses, whilst the girl demanded that her marriage expenses should be repaid and she given in marriage to her paramour. In this case the parties were Billawars, or toddy drawers, and the girl's people never disputed the husband's rights, but as it was inconvenient for them to repay the marriage expenses, her uncle confined the girl for 3 days in stocks put up inside the house, in order to compel her to consent to return to her husband.

15. For my statement in para 2 that the denial of the legal rights of a husband to the Aliyasantâna husband is a source of the gravest possible crimes against the person, instances without number could be quoted since the decision of the High Court in 1868 from the criminal records of the District, and I need only mention that this decision has been, directly or indirectly, responsible for at least 4 murders, or attempts at murder, during the short period—little over a year—that I have been in

the District. It is also productive of far more such crime than in Malabar: nor is this to be wondered at, for there the wife does not live with her husband but in her Tarawâd house, and if she prove unfaithful she has the protection against her husband's vengeance, of the Tarawâd. Then again the Tarawâd is a protection to the husband as the wife is prevented by the fact of her living in a large household from committing adultery with men of other castes, or any man not recognized by and encouraged by the heads of the Tarawâd, and lastly the Marumakkatâyam husband is not likely to feel infidelity on the part of his wife very severely, for they do not live together, and the rule of society is that she can discard him at any time. In Canara, however, in Aliya Santâna castes the case is very different, for the wife lives with her husband and is maintained by him not her own family. Society, if not the law, recognizes her as his wife. She lives with him and serves him with her children in many cases in a house occupied by them alone: he has no protection that she may not be unfaithful not only with men of his own caste but of other and lower castes; and if she is unfaithful his shame is known to all, for his wife's family house is often at a distance and she rarely visits it except on important occasions whilst he lives. His wrongs at the hands of an adulterer appear therefore to me greater than those of a Marumakkatâyam husband, and can we wonder that he so often under these circumstances, having no redress at the hands of the law, takes the righting of his wrongs into his own hands, and either murders, or attempts to murder, his wife or her paramour, who is frequently a Mappilla, or man of another caste. If crimes of this kind are to be diminished in number and for the sake of morality, it is imperative that the law should recognize as marriage what society recognizes as such: nor is any great revolution necessary to effect this. It is sufficient to this end for the legislature to declare that when a man and woman observing the Aliya Santâna law publicly contract to live together as man and wife, the contractual relationship thereby created between them shall be deemed to be marriage within the meaning of the Penal Code, and shall continue to subsist until the man divorces his wife formally, in accordance with custom, or the woman returns to her family-house, and publicly signifies her intention of divorcing her husband to the heads of her family, and in accordance with custom tenders her husband through them, or others as the case may be, the "Thiridochee", or his "gift at the time of marriage," or its equivalent in money where such gift does not consist of money. Such a rule would cover not only the case of a first marriage, when the "Thiridochee" is usually a present of Rs. 8 equal to two hoons, but also to second marriages in the case of which the bridegroom sometimes gives a cash present of Rs. 4 or Rs. 6, or at least a present of a "Sadi", or cloth. Until this is done we cannot hope that such crimes will become fewer, for, until this is done and so long as the law, whilst declaring the husband bound to maintain his wife so long as she continues to reside with him (Special Appeal No. 238 of 1868, IV M. H. C. R. 196) also declares that he has no legal right during that period to fidelity on her part, (which is surely unreasonable) we can only expect that the husband, if wronged, will take the law, in the absence of any legal remedy, into his own hands.

16. Reform to this extent is imperative in the interests of morality; but I do not think it should stop here. As self-acquired property is at the absolute disposal of the acquirer during his lifetime, and it is human nature for a person to desire that his children should inherit his property in preference to others, there would be no hardship and I doubt if there would be even any complaint, were the legislature to declare that in Canara, even in the case of Aliyasantâna families—self-acquired property should descend to the children in preference to the *santâna*. Even as it is, it

has been held that a man may by Will bequeath his self-acquired property in Canara away from the *santâna* to his children, so that such a declaration on the part of the legislature would only amount to saying that a man is to be presumed to have intended to leave his property to his children, when he has executed no formal will regarding its disposition after his death.

17. If, further, the former method of getting over the difficulties of the system, *viz.*, freedom of partition, put a stop to by the decision of the High Court in Special Appeal No. 83 of 1862 (*Munda Shetty versus Thimmaju Hengasu* 1 M. H. C. R. 380), were legalized, and it declared that whatever a member of an Aliyasantâna family obtained on partition should so far as that member was concerned be considered self-acquired property, the whole Aliyasantâna system would very rapidly die a natural death, and disappear altogether without any violent revolution such as that contemplated by the memorialists of 1869. Nor would this be a subject for regret, for had it not been for the conservative action of the High Court in 1862, I imagine the dissolution of the system would have been pretty complete by this time.

18. With reference to the second clause of para 5 of your letter I send you herewith the opinion of such Aliyasantâna gentlemen as have replied to a request of mine to be favored with their views. The letter of Mr. Ramaya Punja, B. A. B. L. District Munsiff of Mercara, a Bant by caste, deals very fully with the present customs of that caste, and inquiries made by me show that the customs described by him are *in all essentials* the same in all Aliyasantâna castes of the District.

19. In reply to para 6, I beg to refer you to the following.—

Buchanan's Mysore, Canara and Malabar, Vol. II pp. 213 and 214 of the edition of 1870.

Bhûtâla Pândya's Aliyasantâna Law by T. Gopal Krishna Pillay (Late Huzur Sheristadar of South Canara) : herewith forwarded (to be returned); and the following High Court decisions :—

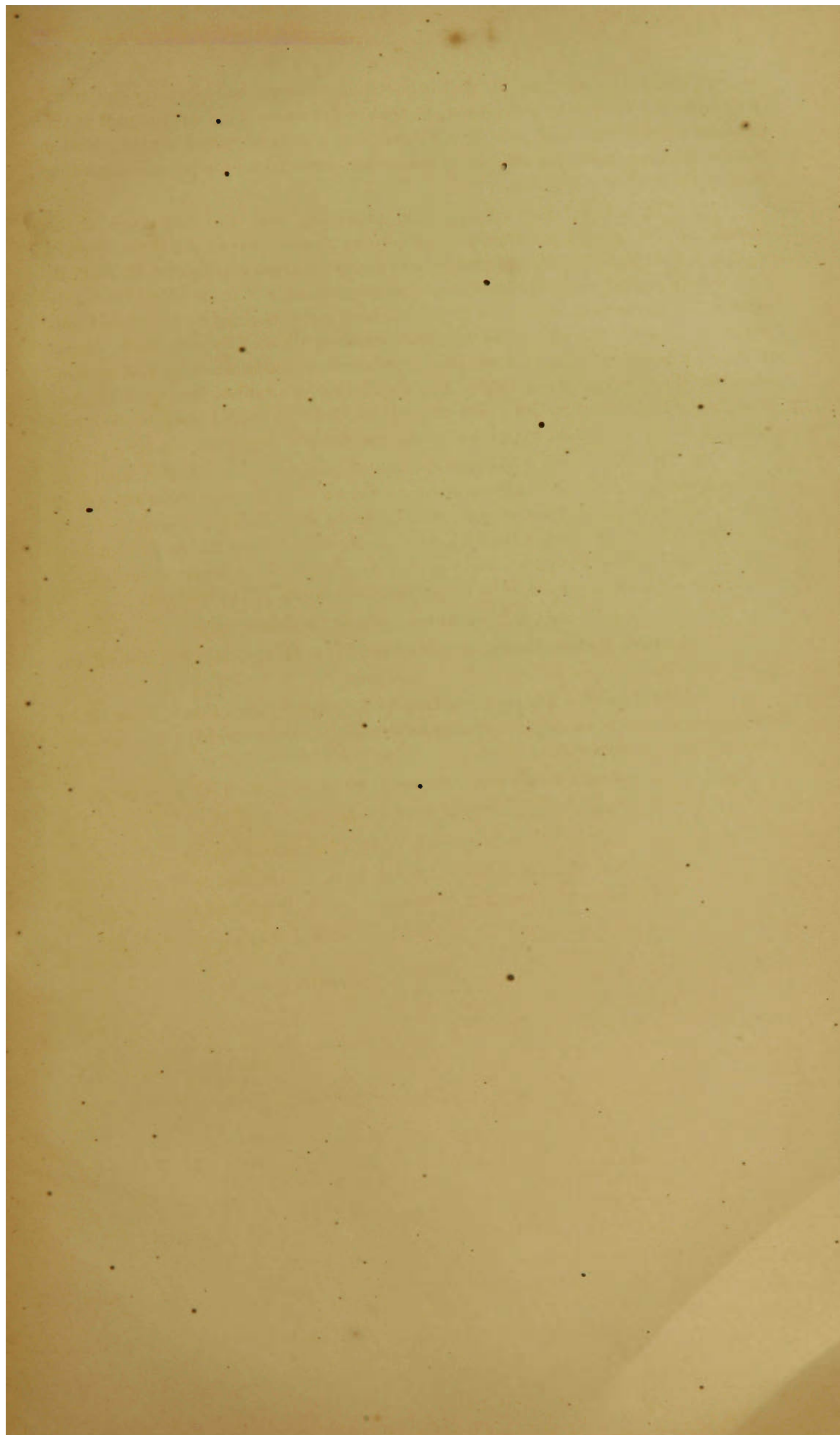
1. Munda Shetti *versus* Thimmaju Hengasu I. M. H. C. R. page 380.
2. Special Appeal 238 of 1868 IV M. H. C. R. 196.
3. Koraga *versus* Empress I. L. R. VI Madras 374.
4. Second Appeal 654 of 1883 I. L. R. VII Madras 575.
5. Second Appeal 322 of 1884 I. L. R. VIII Madras 353.
6. Second Appeal 73 of 1888 I. L. R. XII Madras 462.

I have the honor to be,

Sir,

Your most obedient servant.

(Signed) V. A. BRODIE,
Acting Collector.



CALICUT:

PRINTED AT THE MALABAR AND TRAVANCORE SPECTATOR PRESS.

MERCARA,
13th May 1891.

FROM,

A. RAMAYA PUNJA,*

Munsiff of Mercara.

TO,

V. A. BRODIE ESQUIRE,

Acting Collector of South Canara.

SIR,

With reference to your letter No. 1573, dated the 24th April 1891, forwarding a circular letter, dated the 11th April 1891, from the Collector of Malabar on the subject of special legislation for regulating marriage, succession &c. among the people governed by the Marumakkathâyam law, and calling for an expression of my views on the subject, I have the honor to submit the following.

In para 6 of the circular letter the Collector of Malabar wishes to be informed of some Native work which would give information regarding marriage customs or sexual relation in the Aliasantâna castes. There is a book called Bhûtâla Pândya's "Kattoo" (Law). It is supposed to contain the Aliasantâna Law as laid down by Bhûtâla Pândya one of the Tuluva Kings that reigned over South Canara. It has been translated by Mr. Ramaswamy Naidoo, and also by Mr. Gopala Krishna Pillay. It explains the origin of Aliasantâna Law. The authenticity of the book was doubted by Doctor Burnell.

2. It would not, I presume, be out of place, to give a brief account of the marriage customs, and of the sexual relation existing among Aliasantâna people, before expressing my views on the proposed legislation.

3. Formerly Aliasantâna men were as a rule married at an advanced age and the brides were generally majors at the time of their marriage. Now, too, many girls are ordinarily married after they attain puberty and are fully developed, though there may be instances, especially in the northern parts (Udipi and Cundapoor Taluks) of the District, of child marriage.

4. Persons who are descendants of a common ancestress through females are said to be of the same "Bali." Intermarriage among members of the same "Bali" is strictly forbidden, and the prohibition extends to some specified "Kûdu" (allied) Balis. A person can marry his mother's brother's daughter and her descendants, or his father's sister's daughter and her descendants, as among Hindoos; but he cannot marry his father's brother's daughters, or their descendants.

5. After a match is privately settled the bridegroom's relations and friends proceed in a body with music &c. on an appointed day, to the bride's house, where they are given a grand dinner to which the bride's relations and friends also are invited. There, in the presence of those assembled, the Kâranavans of the bride and the bridegroom solemnly promise that the bride would be given in marriage to the bridegroom and in token thereof betel-nut plates are exchanged, and betel and nut are chewed by both parties. This ceremony is known as "Ponna Pathera" (betrothal).

6. An auspicious day is fixed for celebration of the marriage at the bride's or the bridegroom's house according to convenience, and on that day the bride or the bridegroom as the case may be, is taken in procession with music &c. to the

*Note.—A South Canara 'Bunt' by caste.

marriage pandal. Friends and relations accompany the procession. The friends and relations of the family in whose house the marriage takes place are also invited to the marriage and a grand dinner is given to all the guests.

7. The bridegroom, who is well dressed and bedecked with ornaments, is made to sit on a stool, or a chair, and rice is sprinkled over his head by his relations and friends. After that the village-barber comes and shaves him. He bathes and again puts on good dress and ornaments. The same thing is done with the bride also. A new bench made of the "Halê" tree is placed in the marriage pandal. Now chairs are substituted where available. The village washerman spreads cloths round the seat. The bridegroom and the bride are then conducted to the pandal by their respective relations, or by the village head-man and his wife. They go round the seat thrice after which they are made to sit side by side. The bride's right-hand is placed over the bridegroom's right-hand. A vessel of silver or other metal is filled with water. A cocoanut is placed over the mouth of the vessel and the flower of the arecanut tree is placed over the cocoanut. The vessel which is known as "Dharê Ginde" is then placed on the hands so joined, by the parents and Kâranavans of the pair, in the presence of the village headmen who also touch the vessel. Then the joined hands of the couple, with the vessel on them, are waved up and down three times and the marriage union is declared. This is followed by benedictions from all those present who express their wish that the married couple should become parents of 12 sons and 12 daughters and lead a happy life. An empty plate and another filled with rice are placed before the married couple; and their relations, friends and the guests assembled, sprinkle rice over their heads and give small sums of money as presents. After this is over the bride is taken back in procession to her house.

8. That part of the ceremony which consists in placing the vessel over the joined hands of the married couple and waving them up and down, is known as "Dharê" (pouring or flowing) and is the principal part of the ceremony denoting the completion of the marriage. It is a token of the gift of the girl to the husband. It appears that in former days the parents and the Kâranavan of the bride used to pour water from the vessel over her hand by way of making a complete gift of her to her future lord. Hence it is known as "Dharê." But latterly the practice of pouring water has been discontinued in the Southern and Eastern parts of the District for the reason that the wife has no right to her husband's property and has to return to her mother's house on his death, her connection with her mother's house being not severed. A gift of the girl would imply a complete severance of her rights in her mother's family after marriage. But the practice of pouring the water still prevails in the Udipi and Cundapoor Taluks, and is observed in some houses in the other parts of the District. The "Dharê" ceremony ought to be performed in an auspicious hour.

9. After the marriage is over, but before the bride's procession leaves the house, the husband makes a present of some money to his wife which is known as "Thiridochee" money. Its amount varies according to the position of the parties. It has to be returned to the husband at the time of divorce if that event happens through the wife's misconduct.

10. A few days after the wedding, the wife is taken to her husband's house for consummation of the marriage. She must serve the husband with food when he makes a petty present to her in money. After that the marriage is consummated.

11. When the wife is in the family way, in the 5th, 7th, or 9th month, her pregnancy ceremony known as 'Bayakê' (desire) is celebrated in the husband's house. Her relations and their friends come in a body with music to the husband's house where they and the wife are sumptuously fed and she is presented by the husband with a valuable 'Sadée' (cloth) and a boddice. Ornaments also are sometimes presented on this occasion. After this she is taken to her mother's house for delivery.

12. Among Aliyasantâna people the wife lives with her husband in his family house where she and her children are fed and clothed at his family expense. They live there and work like other members of his family until his death. But on his death and after his funeral obsequies are over, she and her children have to pack-off to her mother's house. Whatever property he had given to them out of his self-acquisitions belongs to them.

13. A widow of the Aliyasantâna caste can marry again, but she can be married only to a widower; for a bachelor cannot marry a widow. Her second marriage is neither so grand nor so formal as the first, but is very simple. A dinner is given to caste people, and in the presence of the guests she and her intended husband are made to sit side by side being separated by a screen, so that they may not see each other's faces and their hands are joined. All the ceremonies observed in the first marriage are omitted in the second. A widow cannot, even after her second marriage, take part in any auspicious ceremonies.

14. Though widow marriage is permitted yet in practice it is resorted to in exceptional cases, such as, where the widow is young or has no issue. Cases of a widow with children marrying again are of rare occurrence.

15. Formerly mere disagreement between husband and wife was not sufficient ground for a divorce. If the wife was guilty of misconduct the charge had to be brought home to her in the presence of her relations and the headmen of the village, after which he could permit her to return to her mother's house and she had to repay the "Thiridochee" amount. It was only then that she could marry again if she pleased. But in these days, when liberty of action is asserted and social customs are more honored in their breach, the above formalities are not observed, and husband and wife abandon each other at will, for no other reason than mutual dislike and disagreement. Public opinion also is losing its hold upon such people, and society is powerless to exercise any influence on them. The people were under the impression that the marriage tie was of a more binding character than it has been pronounced to be by the Madras High Court. Of course the opinion of that Honorable Court may be correct in theory, but it is opposed to practice and is repugnant to the feelings of the people. The Tulu words for husband and wife are "Kandani" and "Boodathee" respectively. 'Kandani' is another form of 'Ganda' the Kanarese word for husband. "Boodathee" is a corrupted form of 'Boodalthee.' 'Bood' is another form of 'Veedu' which in Tamil and Malayalam means a house, and 'Alathee' means governess. The word 'Boodathee' therefore, means governess, or mistress, of the house. The derivation of the word shows that the wife was considered as the mistress of the house, a position which would never have been assigned to a concubine if she was such.

16. As the law now stands, Aliyasantâna husbands have no protection. Their wives may be ravished and seduced with impunity. What would be the feelings of a husband of self-respect and of good social position, who is also the father of

some children, if his wife is carried away by another? They can be better imagined than expressed. Yet such is the law by which thousands of Her Majesty's subjects are governed. Such a state of things cannot be endured under the benign and enlightened rule of the British Nation.

17. In days of yore when men's mind were steeped in ignorance, and had not been brought under the influence of English education, they did not perceive the pernicious effects of the custom. But now they have begun to feel the wretchedness of their situation. They are dissatisfied with the existing order of things. The Aliyasantâna Law runs counter to the natural feelings and promptings of a man. An Aliyasantâna man is a human being, and, like the rest of the human race, he has affection toward's his wife and children and a desire to enrich them, which no human law can suppress. The Aliyasantâna Law enjoins that a man's properties should go to his sister and her children. But there are numerous instances in which a man has given to his wife and children, by way of gift or otherwise, not only his self-acquired property, but, some portion of his family property as well. The latter is given clandestinely. The manager gives, though secretly, much of the family income to his wife and children, and the matter often comes before Civil Courts for decision. He is like a man with his legs in two boats, which he has to row side by side. On the one hand he has to discharge an onerous trust and administer the family estate for the benefit of the whole family; on the other hand he has an eager but natural desire to benefit his wife and children as much as he could. From this one can see in what a false position he is.

18. The above state of things has led to much litigation. There has been a steadily growing desire among Aliyasantâna people for a change of the existing Law. It appears from the translations of Bhûtâla Pândya's book already referred to, that several castes are governed by Aliyasantâna Law. But now we find that Harishetties and Parivara Bunts have renounced it and now follow the ordinary Hindu Law. Goldsmiths, Blacksmiths and Carpenters, who till lately were governed by Aliyasantâna Law, now claim to be Panchala Brahmins, and wish to be governed by the Hindu Law, and I believe have openly asserted in several suits before the Civil Courts that they are governed by that Law. With those classes of people who do not own large properties, change of the law of inheritance is not very difficult. But it is otherwise with people who possess extensive properties.

19. About 23 years ago an attempt was made to submit a memorial to the Madras Government to change the Aliyasantâna Law of inheritance and give, in its stead, a system of inheritance from father to children. A printed copy of it is herein enclosed. A large number of people signed the memorial but, as might be expected, an equally large number opposed it; for, the proposed change would have affected rights to extensive properties. Sons who hoped to inherit the large fortune of their fathers, were in favor of the proposed change, while, on the other hand, nephews were opposed to it. Consequently, the matter had to be dropped, as Government might decline to act when there was such difference of opinion. The Honorable Mr. Muthusami Aiyar who is the President of the Commission, may be aware of the above fact as he was then Subordinate Judge of South Canara.

20. From the above it may be inferred that the people are not satisfied with the existing law and that they, or, at any rate, some sections of them, have been seeking for a change.

21. Your letter under reference was received by me at Mangalore shortly before my departure for Mercara. Therefore I was not able to sound the views of any large body of my castemen (Bunts) on the provisions of the proposed Bill. But the few whom I consulted said that it would be a desirable reform and would be quite acceptable to them. From my own personal knowledge of the feelings of my caste people on the existing system of marriage and inheritance, I venture to say that the proposed legislation will be welcomed by them.

22. The Honorable Mr. Sankaran Nayar's Bill only provides a permissive form of marriage. It does not attempt to bring under its clutches persons who do not wish to be governed by it. Those who wish to get their marriages legalized are permitted to do so. Therefore those who do not like or want a legal sanction are unaffected by the Bill.

23. When marriage is legalized so as to make adultery with the wife punishable under the Penal Code, it is but necessary that bigamy should be prohibited and that divorce should be restricted and regulated on recognized principles of morality and justice.

24. It is also equally necessary and just that the wife and children of a marriage contracted under the Bill, should pass from the guardianship of the Kâranavan to that of the husband. As already observed a man's affection towards his wife and children is natural and great. A Kâranavan has little sympathy for the members of his tarawâd, and might not take the same degree of interest in their education and welfare, as their father could take. For instance take the case of a family consisting of numerous branches. The Kâranavan is expected to treat them all with equal consideration. If he educates one or some of the members of a branch, the other members are jealous of it and think that family funds are expended for the individual benefit of those members but to their own prejudice. Besides, the Kâranavan may be disposed to see his nearer relations advanced, in preference to other distant relations, who may be numerous and who have as much right to a beneficial enjoyment of the family property as they. In the interests of the children and the wife, it is necessary that they should be placed under the guardianship of the husband.

25. As regards the maintenance of the wife and children, the provision of the Bill is no innovation and falls short of the existing practice. For as already observed, according to existing custom, the wife and children live in the husband's house and are maintained there at the family expense. The members of the husband's family do not grumble as it, as the custom exists in every family. If a man wishes to see his marriage recognized by the Law, he must be prepared to maintain his wife and children. The provision that he should maintain them is therefore quite just.

26. Marriage is recognized in Bhûtâla Pândya's book though not its incidents in the matter of succession to property. It is distinctly laid down there that on a man's death his wife and children alone should observe "Sootaka pataka" (pollution &c.,) of the deceased. This injunction is actually observed in practice even at the present day. This would go to show that marriage among Aliyasantâna people is something more than mere concubinage and that the right of inheritance is the only element wanting to make it a substantial union.

27. On the principles of general jurisprudence and equity, an Aliyasantâna man is like any other individual, at liberty to dispose of his self-acquired

property as he pleases. That he could do so in his life-time is undoubted and there is nothing in principle, against his power to bequeath such property. The Bill in question goes only one step further and declares that where a person dies intestate, his self-acquired property should devolve on his wife and children. If it is his intention to disinherit them, or to give them only a portion of his property, he is at full liberty to do so. His omission to do so would lead to the presumption that his intention was that the property should go to his wife and children. I see nothing objectionable in this provision of the Bill.

28. One great merit of the Bill is that it does not affect the law of succession to Tarawād property, which will remain as it is, and will operate only on those that choose to come under its operation. This fact must disarm all opposition. If the Bill be passed into Law, its effect will be to introduce the thin end of the wedge. In course of time the people may of their own accord desire for a thorough and more complete change of their Law.

29. The present state of the marriage relation has an immoral tendency, the marriage tie being not binding on either party. Its effect on society may be easily conceived. The education of children is neglected for reasons already given. There can be no hope of reform in these directions without legislative interference. The people would be glad to find a way of escape out of the existing unnatural customs. If there are persons who are opposed to the proposed measure they will make known their views to the Commission either as witnesses, or by petition. The Bill may be published in the local gazettes inviting objections, if any.

30. The only point in favor of the Aliyasantāna family system is the indivisibility of family property, which keeps such property intact. But this is due to the prohibition placed on division, and not to the peculiar mode of succession from uncle to nephews. In all other respects the system of inheritance has proved ruinous to great and wealthy families and has been breeding nothing but mischief. The Yejamān of a family governed by the Hindu Law has the interest of his family at heart, and both he and his children have a common interest to improve and increase the family property. But in an Aliyasantāna family he strives his best to defraud his nephews and nieces, in order to enrich his wife and children. The result is that family property is encumbered with debts when there is no real necessity for them, and his sons join with him in destroying it as it is their interest to do so. The nephew are only entitled to maintenance and are therefore indifferent to the improvement of family property. If children are to inherit at least the separate property of their father, they would co-operate with him in its improvement.

31. Under the existing system, there is little scope for individual exertion and advancement. Even in wealthy families the junior members being only entitled to maintenance, possess no funds of their own, which they can utilize in useful undertakings. The system is not at all favorable to the material advancement of individual members. They cannot engage in commercial or other pursuits for want of funds of their own. It will be otherwise if they can inherit at least their father's separate property.

32. The only fear is whether the proposed law will turn out to be a fruitful source of litigation. The question whether a certain property belongs to the family or is the separate property of a member, will often arise before the Civil Courts. Such questions do arise under the existing Law also, but they may arise

more often under the proposed Law. Questions as to whether a property is the separate property of a member or the joint property of a family, arise in suits for partition between persons governed by the Hindu Law. Therefore objections on the score of increase of litigation ought not to weigh against the benefits which society would otherwise derive from the proposed change.

33. It must be understood that the foregoing remarks are confined to the Aliyasantâna law, and to the customs and usages obtaining among Aliyasantâna people of South Canara. I refrain from saying anything with regard to the custom of Malabar, as my knowledge of them is limited, and as there are men of light and leading in that District, who are better able to give an opinion on them.

34. I would have very gladly given evidence before the Commission. But the summer recess for the Munsiff's court at Mercara is over and I cannot go without leave from the Chief Commissioner of Coorg. I am willing to be examined on interrogatories if that course be acceptable to the Commission of enquiry.

35. As the members of the Commission may be desirous of obtaining all available information on the subject of the marriage customs and sexual relation as they exist in South Canara, I request that you may be pleased to forward my opinion and a printed copy of the memorial above referred to, which I have herein enclosed, to, the Commission of enquiry.

I have the honor to be,

Sir,

Your most obedient serwant,

A. RAMAYA PUNJA,

Munsiff of Mercara.

To

HIS EXCELLENCY THE GOVERNOR IN COUNCIL,
MADRAS.

May it please your Lordship !

We, the undersigned members of the several classes of Natives of South Canara, who are governed by the Law of Succession, called Aliasantânam, under which inheritance descends from maternal uncle to his nephew, being dissatisfied with the said Law and being of opinion that the said Law is an obstacle to our advancement and prosperity in life and a constant source of contention in families, most respectfully beg that your Lordship in Council will relieve us from this baneful Law, and introduce a new one, under which hereditaments would be made to devolve from father to son, for the following reasons :—

2. The Aliasantânam Law had its origin in the caprice and selfishness of a despotic prince, called Bhûtâlapândya, who once ruled this Tulava country. The maternal uncle of this prince, by name Dêvapândya applied to his wife for permission to sacrifice a son of his to a demon, called Kundôdara, of whom he was a devotee. But she naturally would not consent to it. But his sister agreed to give him her son, then called Jayapândya and afterwards Bhûtâlapândya for the sacrifice. The demon Kundôdara is said to have been so pleased with this, that he commanded Dêvapândya to disinherit his sons of wealth which he had brought in a ship, as also of the kingdom, and to bestow all on his sister's son, the said Jayapândya alias Bhûtâlapândya. This was accordingly done. And since this prince Bhûtâlapândya inherited his kingdom from his maternal uncle and not from his father, he ruled that his own example should be followed by his subjects, *i. e.* that inheritance among his subjects also should, as in his own case, descend from maternal uncle to nephew, instead of from father to son ; and it was thus that the so called Aliasantânam Law was established on the 3rd of Mâghashoodh of the year 1 of the Shâlivâhana era, called Ishwara, about A. D. 77.

3. This system of inheritance is opposed to nature ; for nature has implanted in the heart of man an affection for his progeny and a desire to bestow on them all that he possesses, and to see them happily settled in life. But the Aliasantânam Law demands that a man shall love his nephews more than his own children, and thereby compells him to run counter to human nature. No positive Law, however stringent it may be, ever triumphs against nature, and the result, therefore, is that while the estates of Aliasantânam families are made over to the management of a single individual, he on his part is prompted by his natural inclinations to betray the trust reposed in him, in the interest of his nephews, which it was the object of the Law-giver to protect, and to press into his service perjury, forgery and other utterly demoralizing expedients to carry out his wishes the more effectually.

4. The Law of Aliasantânam or nepotism therefore has, ever since its introduction, been breeding nothing but mischief. And all courts of Justice in the district and almost every one conversant with Canara, are fully aware, how the Ejamân or Kâranavan of a family governed by the Law of Aliasantânam fraudulently contrives to bestow on his wife and children what fortune he can, at the expense of the property which by Law he is bound to keep and to bestow on his sister's son. Such Ejamâns are, however in one sense, not to blame, for they only

yield to nature, which the Law with little policy directs them to disown. And we believe much of the demoralizing litigation, that disgraces this district, can be traced to this revolting system.

5. This system of inheritance has proved ruinous to great and wealthy families. The Ejamân or the headman of a family, in which the son succeeds his father, has it generally at heart to improve and increase the property of his family, for he is sure to bestow it on his children, towards whom he has a natural affection. And even if such a headman should happen to encumber his estate with debt, his children think it their interest to redeem it. The same, however, is not the case with the Ejamân of a family governed by the Law of Aliasantânam. He would defraud his nephews, at present rightful heirs of all the property, real or personal, to provide his own wife and children with a suitable fortune; while his children also, who would otherwise have improved their father's property, join their father in destroying it; for they know they must make hay while the sun shines, and that when the property passes away from their father, they would lose all means of profiting by it.

6. His successor also does the same in his turn, for it is not natural that he should act otherwise. It is thus that great and wealthy families, sooner or later but surely, collapse and gradually dwindle into nothing.

7. The present state of Aliasantânam people compared with what it was several centuries back, shews that nothing but evil and ruin have come out of the change inaugurated by Bhûtâlapândya, and that the people are gradually going downwards in the scale of social advancement. Every one conversant with the habits of the Aliasantânam people, is aware what ruin this anomalous system of law has entailed upon them.

8. The habits of the people have, in many respects, outgrown the spirit of Bhûtâlapândya's legislation. Bhûtâlapândya has expressly forbidden division, and declares as compulsory a state of perpetual coparcenary liable to be put an end to only on the consent of the whole family. Still for centuries past, and during the preceding administrations, and also during the present administration, the habit of enforcing division at the choice of any female member has prevailed, and also been recognized by courts of Justice. It is but lately that the High Court have ruled that social necessities and expediency, although proper considerations for the legislature to amend the Law, are no reasons for courts of Justice to refuse to administer the Law as declared by the Law-giver.

9. Again Bhûtâlapândya intended that the females of an Aliasantânam family should live in their family mansions together with their uncles, and perhaps hoped that this joint residence would greatly put it out of the power of the Ejamân successfully to betray the trust reposed in him; but owing to the progress of ideas subsequent to Bhûtâlapândya's legislation, the tie of marriage is practically much more firm than that prescribed by Bhûtâlapândya, and for centuries past, the Aliasantânam females follow the domicile of their husbands, instead of remaining in their family mansions, as contemplated by Bhûtâlapândya, and as is the case in Malabar.

10. We have also to submit that the system of Aliasantânam Law, as conceived by Bhûtâlapândya, has no material connection with our religious habits and usages. Bhûtâlapândya himself declares that the sons alone are bound to observe "Sutika Putika" of the father, whilst the nephews are to take the assets

and liabilities of their uncle. We respectfully beg to draw your Lordship's attention to this circumstance in order to satisfy your Lordship that a change in the law would be no interference with our religious habits and feelings.

11. In the next place we have to submit that legislative interference is become necessary owing to a change of habits and ideas amongst the people since Bhûtâlapândya legislated. The family system as contemplated by him is that of a patriarch living with his nephews and nieces in the family mansion, and apart from wives and children, whilst according to present habits, the Ejamân lives in his family mansion with his wife or wives and children; on the other hand, the female owners of the property follow the domicile of their husbands, living often at a distance from their homes. The result is, that nature tempts the Ejamân to break his trust, his wives and children urge him to it, whilst the absence of the real heirs from the family mansion affords facilities for the Ejamân to make evidence to support his fraud, and this state of things renders it next to impossible for the former to discover the details of his fraud and much more to establish them to the satisfaction of a Court of Justice. Until 1862, the recognition of a right in each female member to elect a division formed an adequate relief in those cases, in which it was not in her power, from the circumstances already adverted to, to bring home malversation to the Ejamân, and although the law, as has recently been laid down by the High Court is as it stood at the date of Bhûtâlapândya, our habits, as already shewn, are not in few particulars contrary to the spirit of his legislation. For these reasons, we solicit the kind consideration of your Lordship, whether legislative interference is not necessary to check the evil arising, no less from the unnatural basis on which Bhûtâlapândya has legislated than from the change in the habits of the people which tends to bring out the worst evils of this strange system.

12. We beg also to bring to your Lordship's notice, that this is not the first move in the province to bring about the substitution of " Makalsantân " for the Aliyasantân. The matter has long been talked about amongst the people and been under discussion all over this district.

13. Inheritance among us was originally (before the introduction of the law of Aliyasantân) as among the rest of the Hindus and other nations, from father to son, and therefore the revival of the same would be not an innovation unacceptable to the people.

14. Your Lordship in Council will thus observe that the introduction of the Law of inheritance from father to son, will relieve us from the absurd and tyrannical law of a capricious prince, and give us one which is agreeable to nature and consonant with reason, whereby all inducement to resort to fraud and foul play, in order to do what is every way a just and natural duty of providing our children with a means of livelihood, will be removed,—many a great and wealthy family will not only be saved from an otherwise impending ruin, but a fair way for their prosperity will also be opened to them,—contention in families will be put a stop to, and peace restored to them: in short, all and every thing that is necessary to the wellbeing, elevation and prosperity of society itself will be firmly established.

15. We beg to add that not only we, but almost all the people governed by the Law of Aliyasantân are willing to re-adopt the system of inheritance from father to son. A few perhaps may not be willing through prejudice in favour of the long established and time honored Law of Aliyasantân, and a few others

through fear of loss of right to large estates of their maternal uncles to adopt a new system of inheritance, notwithstanding all the benefits they may derive from it hereafter. We therefore respectfully and earnestly beg leave to crave, that merely on account of these or similar difficulties the enactment and introduction of so beneficial a law as that of inheritance from father to son, may not be withheld from us, and to suggest, that its adoption be made binding upon all, except those who make their objections within a certain date that may be fixed by your Lordship. We further beg to suggest that it may be enacted that every male and female member of every family shall have the same shares to which he or she is entitled under the present Law, in all the moveable and immoveable property of the family that may exist on the date the new system comes into operation, and that the share of each member shall thereafter devolve on his or her children.

16. Under all these circumstances we most respectfully and humbly pray

Hon'ble J. O. St. Olair.

H. S. Thomas Esq.

Red. H. A. Kaundinya

M. R. Ry. Muttuswamy Iyer.

„ *Shreenivas Rao*

Mr. L. S. Rozario

„ *J. Ball*

M. R. Narsimha Kamapurisarad Bangar of Nandavar.

„ *Konde Manjappashetty of Mudabidri*

„ *Parshetty of Mudabidri*

„ *Maramma Heggade of Yermal Bidu*

„ *Padmaraja Karnantaya Ballal of Kulur Bidu*

„ *Bail Subbaya Bandari*

„ *Kantu Bandari of Adyar Guttu*

„ *Sanku Punja*

„ *Arasa*

„ *T. Duma*

that your Lordship in Council will be pleased to name a Committee to be composed of the gentlemen noted in the margin, who possess vast local experience of the District, as well as the rights under, and the practical results of the Law of Aliyasantānam, to report upon the propriety of the enactment and introduction of the Law of inheritance from father to son, and on their giving a favourable opinion, to enact it into a law.

And your Lordship's Petitioners shall, as in duty bound, ever pray.

(True copy)

H. M. WINTERBOTHAM,

Collector on Special duty.

ALABAMA

REPORT

ALABAMA AGRICULTURAL COMMISSION

Information of the Witnesses relating to the
Case of the State vs. the Defendant

APPENDIX IV.

TO THE

REPORT

OF THE

MALABAR MARRIAGE COMMISSION.

(Depositions of 121 Witnesses examined before the
Commission, with List.)

APPENDIX IV

REPORT

LABOR MARKET COMMISSION

REPORT OF THE LABOR MARKET COMMISSION
ON THE LABOR MARKET IN THE
UNITED STATES OF AMERICA
FOR THE YEAR 1917

Witness No. 1.

KOTIETH RAMUNNI.

Am a Marumakkathâyam Tiyan, Age 39. Native place, Cannanore. Practising at Tellicherry as 1st Grade Vakeel. Question 18:—I have found lately that there have been instances amongst the Marumakkathâyam Tiyans of North Malabar in which a mother has tied the tâli. Question 22:—A Nambudiri or Pattar would not give silk and bracelets, I believe. Question 25:—My answer refers to Nayars as well as Tiyans. Question 32:—In many cases a Tiyan woman will remain in the Tarawâd house of her husband after his death.

The husband in North Malabar, is never called *Sambandhakâran*, but *Bhartâvu*. The woman is always called *Bhârya*. It is during the last 20 years that the practice of a man having more than one Sambandham at the same time, is gradually declining. It is now very rare amongst the respectable classes in North Malabar. Question 36. In my opinion the old custom was for a man's self acquisitions to go to his nearest female relatives, that is to his own Tâvazhi and not to the Tarawâd. It was in my opinion, Mr. Holloway's decision Vol. II. Madras High Court Reports, which changed the custom. Most of the Marumakkathâyam people in North Malabar live from hand to mouth. The Kâranavan is the legal guardian of every child in the Tarawâd. His obligation only extends as far as there is Tarawâd property. He is not bound to support any member of the Tarawâd by his own exertions. Some how or other every child is brought up, and I don't think our custom as to guardianship requires alteration. Even for adult Anandaravans, the Anandaravan has no voice in the selection of his wife. The Kâranavan selects a mate for him. If he is living separately he may of course follow his own inclinations. If an adult Anandaravan formed a Sambandham without his Kâranavan's consent, the Anandaravan would be turned out of the Tarawâd. He would, I think, have no legal claim to sue for maintenance. If a man marries into a Tarawâd and his wife dies, he can marry no second woman from the same Tarawâd. I have no objection to offer to conditions 1, 2, 3 and 4 and 1st proviso of Section 40. I have a child of my own under my guardianship from its birth. I know I am not its legal guardian. I am content with that position because I have no fear of the Kâranavan exercising his rights. If an Act is to be passed, I should insert proviso 1. of Section 40, but I object to any Act, providing a new form of marriage. Question 42:—Adultery on the part of the woman is, I might say, the only recognized reason for terminating a Sambandham in North Malabar. As between the Tarawâd and the wife and children, I would prefer that self acquisitions and separate property should go to wife and children, but I would sooner that half should go to wife and children and the other half to the tâvazhi, that is to mother and her children. If a law were passed legalizing the existing approved form of marriage ceremony in North Malabar, and maintaining the existing freedom of divorce, no one would object to it. I should wish adultery with a Marumakkathâyam wife to be made punishable. In Sambandhams between a man of a higher division and a woman of a lower division the ceremony called "Pudamuri" is never performed. The ceremony is then called "parisham châyiga."

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
21st May 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 2.

MÂNIKKÔTH KÊLU NAMBIYAR.

Nayar.—Age 41.—Azhikôd amstam, Chirakkal Taluk.—1st Grade Pleader practising at Tellicherry.

I received a set of interrogatories but I didn't answer them as I wished to be examined by the Commission. As far as I know there is no desire at all for a marriage law in North Malabar. I have talked to many respectable people and they are all dead against the measure. There is a marriage in North Malabar already. The people are not willing to have any change in the existing system. I have only consulted two officials and they are dead against it. The main objection is that there should be no check on the freedom of marriage and divorce. I would prohibit a man from marrying a second wife even for a sufficient reason. The Tâlikettu kalyânam is indispensable. It is called in North Malabar kalyânam—not pen-kettu-kalyânam. I never heard of a case in which the ceremony was performed after the girl reached puberty. It is not a marriage in the sense in which marriage is understood on the other Coast. In some places, amongst Nayars, the father ties the tâli; the general rule is that a Brahman should tie the tâli. It is not intended that he should become the husband. It is a religious ceremony by which a girl attains the status of "Amma." That is equivalent to "Madam" in English. By Tâlikettu, she attains the capacity of forming Sambandham. On the first day of Tâlikettu, the girl goes in procession to a temple, and there bathes in the tank. At the temple the priest pours consecrated water on her head. There the tâli is tied by the Brahman if the girl is of a poor family. If the tarawâd is a rich one, the Brahman comes to the tarawâd house and ties the tâli. He is then paid a fee. The ceremony should last 2, 3 or 4 days according to wealth. The father ties round the girl's waist a cloth called "Mantrakodi" that is on the first day. A Mârayân (Nayar Purôhit) ties a ring called "kâppu" on the upper right arm of the girl. Then follows the feast. At the night the girl comes to the Kalyâna Pandal (wedding booth) with other ladies; there one Pâppini sings religious songs. The washerman brings two chêlas (cloths). He sometimes offers prayers for the prosperity of the girl. Immediately afterwards a washerwoman comes with a mâttu (cloth) and she also sings some songs. Then a Tiyan (*sic*) brings the spathes of a cocoanut and a tender cocoanut and he prays for the girl. The second day the girl goes to the tank, wearing the washerman's cloth and carrying the spathe and tender cocoanut, and attended by the Pâppini. There the girl bathes and the Pâppini sings a religious song. Afterwards the spathe is opened there, and the number of buds is counted. The Pâppini predicts that the girl will bring forth as many children as there are buds. Then they return, and the girl dresses herself in the chêla (cloth). She is again taken to the pandal. There the Pâppini sings another song. Then they adjourn to the Padinyâttini (western) room where the Pâppini receives a cloth and some fanams. Then the girl is taken to an inner verandah and the Mârayân takes off the Kâppu. Then the Mârayân cries out "amma, amma, amma," 3 times. Then follows the feast. Then the girl goes again in procession to the temple. Then the priest comes forward and blesses the girl and is paid a fanam. The girl then puts a small silver coin into the temple treasury and returns to the house. The above refers only to the Chirakkal, and Kottayam Taluks. At the processions all the people should shout out "ârppu, ârppu." I believe that means âru=six, and ippôl=now—meaning "even now she is a virgin," because the sixth sign of the Zodiac is a virgin. That is only my own idea. I think "ârppu" means that the girl is still looked on as a virgin. The tâli is removed from the neck of the girl on the fourth or fifth day. Sometimes she wears it for a week or so. In the processions, the girl is not accompanied by the tali tier. The girl's kâranavan's wife must go with the girl carrying a light and a plate of raw rice. Among some of the Rajahs, the tâli is tied by a Koil Tamburân. In the Chirakkal Kovilagam after talikettu, the tâli-tier is asked whether he wishes to be the husband. If he answers in the affirmative he becomes the woman's husband without further ceremony. If he answers in the negative he walks away, and then a Nambudri is sought for. Generally a Nambudri will be the Sambandhakkâran, because he

gets an allowance. Regarding the other Kovilagams I can't state their custom from my personal knowledge. In "Puda muri" the offer comes always from the bridegroom's side. If the offer is accepted, a day is fixed for examination of horoscopes. If they agree an auspicious time is fixed. The bridegroom and his friends then come to the bride's house, with a new cloth (pudava) also betel, areca nut and tobacco. The betel, nut and tobacco are distributed amongst the girl's relations, in token that they consent. The new cloths are taken to Padinyâtta room, & each double cloth is cut into two. Dakshina is then given to Brahmans. Then the cloths and a few Rupees are given to the girl in the presence of his friends. Then the bridegroom and his friends are sumptuously fed and the ceremony concludes. The marriage is consummated the same night if the girl has attained her puberty. Sometimes this ceremony takes place before the girl arrives at puberty. I suppose that consummation in such cases is deferred. After Pudamuri the man and woman are called *bhartâva* (husband) and *bhârya* (wife). The connection is not terminated without justifying ground. There are two ceremonies of divorce. The husband divorces the wife when the wife is guilty of adultery, has lost caste, is subjected to incurable or loathsome disease, or on disagreement of temper. The wife can divorce for loss of caste and the above causes, excepting adultery. If the connection is dissolved arbitrarily, neither man nor woman loses caste, but Society would greatly disapprove. The form of divorce is that a husband should go to his wife's house with two friends, if possible two who witnessed the marriage. There should be four pieces of cloth and two fanams. In the presence of the relations of the wife, the husband should declare "My connection with so and so ceases from this date." Divorce is also effected by a husband absenting himself from his wife for one Vishu and one Onam *i. e.* for one whole year. If the wife wants to divorce her husband she communicates her wish to her Kâranavan through his wife. If the Kâranavan is satisfied, he sends a message giving permission. Then if the girl absents herself from her bed-room on three consecutive nights, the divorce becomes complete. The three nights' time is to give the relations an opportunity for mediation. All the above applies to Kottayam and Chirakkal Taluks only. I can't speak as to other places of my own knowledge. In North Malabar the wife generally lives with her husband, either in a separate house built by him, or in his tarawâd house. If in the tarawâd, she is fed at tarawâd expense. If a man married without his kâranavan's consent, the wife would not be admitted into his tarawâd house. The expenses of the Sîmantham ceremony, in 5th or 7th month of pregnancy, are shared between the wife's tarawâd and the husband. Since Mr. Holloway's decision the kâranavan is the legal guardian. In fact, the mother is practically guardian while her children have not reached years of discretion. Before Mr. Holloway's decision, a father was considered the legal guardian of his children if they and his wife lived with him. Before Mr. Holloway's decision, the kâranavan would take charge of any children if he saw that their father was neglecting them. If the 'wives' of Anandaravans live in the tarawâd house of the Anandaravans, the Karanavan must provide for their maintenance. It is a general practice for the father to provide for his 'wife' and children by gift *inter vivos*. A major portion is generally left by him undisposed of for his Tâvazhi. The old practice was that a man's self acquisitions should go to his sisters and their children *i. e.* to his own Tâvazhi *i. e.* to his mother's issue. The want of power to dispose of self-acquired property by Will is acutely felt in North Malabar. A man cannot marry in his own "Vamsham" or "Kulam." A man cannot marry any member in his deceased wife's tarawâd.

I would adhere to the custom of polygamy. I would reduce the marriageable age of a girl to 12. I object to any change of existing custom. If a man's self acquisitions go to his wife and children, the tarawâd property would not be recruited, karanavans would not educate anandaravans, children would not be submissive to karanavan. Separate property of a last survivor in a tarawâd, I would give to his wife and children. I do not wish adultery to be punishable as an offence. I am not the kâranavan of my tarawâd. My kâranavan is my uncle. I don't think it is just that a man's self acquisitions should go to his kâranavan. I think they should go to his own Tâvazhi. If a kâranavan had

no tarawâd property, nevertheless by his own personal exertions, he would support the members. I affirm that a kâranavan is under a personal obligation to maintain his tarawâd members, even if there be no tarawâd property.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
21st May 1891. }

H. M. WINTERBOTHAM

Collector and Commissioner.

Witness No. 3.

KÔRÔTH RÂMUNNI.

Marumakkathâyam Tiyan. Age 80.—Tellicherry.

I have sent in my answers to the interrogatories sent to me. I was a Vakeel. I am now a Municipal Councillor and Bench Magistrate. Amongst Tiyan's tâli is sometimes tied by males. In such case the man is the intended husband. In other cases the mother or the sister of the intended husband is the person who ties. If no husband has been fixed on, either the mother, sister, or brother of the girl will tie the tâli. The relation of husband and wife is not created by the Tâli-kettu-kalyânam. That is created by the following ceremony called Mangalam which I have described in my answers. The *Mangalam* is performed even when the intended husband ties the tâli. The general custom here is for one man and woman to cleave together for life.

I think a permissive marriage law is very desirable for Marumakkathâyam people. All the respectable people desire it. It ought to be made compulsory I think. I should prefer that registration of marriage should be allowed after celebration of marriage in the customary form.

I agree that in case of intestacy the self-acquired property should go to wife and children. I would give no share to the Tarawâd. The wife and children should exclude Attâl-adakkakar. A man in consideration of the old Marumakkathâyam usage will rarely give part of his self-acquisitions to his tarawâd. I think the majority are in favour of leaving self-acquisitions to wife and children.

Now few know the Shastras, and on a small disagreement ignorant men will dismiss their 'wives.' People who know the Shastras will only divorce on ground of adultery. Stealing the husband's property is also regarded as a sufficient reason of divorce. A Tiyan woman if she leaves her husband without good reason would not be associated with. She would not be put out of caste. Her conduct would be considered reprehensible. This would apply equally to the 'husband' if he dismissed his 'wife' without cause. All his or her relations who supported the misconduct would be liable to the same inconvenience. The custom is that a man should only have one 'wife' at a time. Some men marry more than one. It is not proper in my opinion. In the case of barrenness of the first 'wife' a second marriage is excusable. Amongst Tiyan's the only division is into Makkathâyam and Marumakkathâyam. There are instances of intermarriage between Makkathâyam and Marumakkathâyam Tiyan's. There is no caste objection. Amongst Tiyan's, a man cannot marry in his deceased wife's tarawâd as far as I have seen.

Amongst Tiyan's a Kâranavan is not justified in spending Tarawâd property in supporting the Anandaravan's wife and children. If the Kâranavan is pleased with the exertions of the Anandaravan he will sometimes do so.

A girl who had not the tâli-kettu performed before puberty would be an out-caste. The Kâranavan's consent is not indispensable to form a valid sambandham. Acting without his consent would be considered as insubordination.

I am the kâranavan of my tarawâd. There is only one tâvazhi.

Taken down by me in the presence of the Commission; read over to the witness and admitted by him to be correct.

Tellicherry, }
22nd May 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 4.

KÔRÔTH KANNAN.

Marumakkathâyam Tiyan.—Age 44.—Tellicherry.—1st Grade Pleader.

I have sent in my answers to the interrogatories. The last witness is my father. I disagree with some parts of his statement. I am not in favour of legislation to provide a legal form of marriage. I would give Marumakkathâyam people the power to dispose of their self-acquisitions by Will. My father has given more than half his property to his children, including myself, by a gift which he cannot revoke. The 'wife' may terminate a Sambandham whenever she likes with her karanavan's, father's, or brother's consent. I have not known of an instance of divorce without such consent. People would desire that the existing form of marriage should be legalized. In my opinion legislation is necessary for that purpose. Cases of polygamy amongst Tiyan are rare. I think adultery and bigamy ought to be made punishable in case of Marumakkathâyam Tiyan. The law of succession to self-acquired property should not be altered in favour of wife and children, but in favour of the *Tavazhi* as against the Kâranavan.

The whole of my father's property is self-acquired property. He has only one paramba which is Tarawâd property.

At every marriage among Marumakkathâyam Tiyan in North Malabar a sum of money called *Kânam* is paid by the husband to the Kâranavan of the woman. In case the woman terminates the cohabitation without reason this sum is recoverable from the woman's karanavan. I have acted in several cases in which the *Kânam* has been so recovered by civil suit. The *Kânam* varies from 40 up to 500 fanams within my knowledge. I have taken my father's house-name because he protected and educated me. Two or three others of the leading families of Tiyan have done the same. My mature opinion is that legislation to legalize marriage is desirable. I think it would be more just that the guardianship of children should vest in the father rather than in the karanavan. I don't think it can be said that as a rule kâranavans love their Anandaravans as much as fathers love their children. Fathers will generally look after their children better than the children's karanavan would. Cases are common in which several tâvazhis of Tiyan live in the same tarawâd house under one kâranavan, who is a more distant relative to the junior members than a maternal uncle. Children who get property from their father often live separately from their Tarawâd. Such cases are rare, because there are not many fathers who have self-acquisitions to dispose of. Those who have self-acquisitions usually provide for wife and children by gift *inter vivos*. It is because such gift is surrounded with difficulties that I desire testamentary power. I should provide if I could for my wife and children, and for my own *Tâvazhi*.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
22nd May 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 5.

MÂDÂVIL RÂMUNNI VAIDIYAR.

Tiruvangad amsam—age 24.

Am a private individual. I have submitted answers to the interrogatories of the Commission. The majority of the people are against the proposed legislation. One or two persons, that is I mean a few, may be in favour of it. I consider the present marriage in North Malabar to be sufficiently binding. As a 'husband' can turn away his 'wife' in case of adultery, I don't think adultery need be made punishable. I object altogether to registration of marriage. I object to divorce being rendered impossible except by a Civil suit. I desire testamentary power over self-acquisitions, because a gift *inter vivos* may lead to difficulties. In case of 'wife' and children who have received such a gift proving disobedient there is no way of re-calling it. In most cases in North Malabar the 'wife' lives with the 'husband' in his house or tarawâd. This, no doubt, resembles the Makkathâyam practice.

What I have heard is that a girl who had not undergone tâlikattu before puberty would be an outcaste. A man can never marry a woman in his deceased wife's tarawâd, or any woman in his own tarawâd however remote the relation. I never heard any one saying that legislation was necessary to legalize marriage, before the Honorable Mr. Sankaran Nair introduced his Bill. Nor did I ever hear any one say that he wanted testamentary power over self-acquisitions.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22ND MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 6.

MANAKKÂDAN KUNYAMBU.

Marumakkathâyam Tiyan—Age 62—Kadirur amsam, Kottayam, Taluk

I have sent in answers to the interrogatories of the Commission. I am the senior Anandaravan in my tarawâd. There are 4 tâvazhis. Each tâvazhi is in a separate house. All the houses are tarawâd houses. I have nothing to add to what I have recorded in my answers.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22ND MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 7.

CHANDROTH KUNHI CHANDU NAMBIAR.

Paniyannur amsam—Kottayam—age 32—Manager of Tarawad.

The ceremony called 'Puda muri' creates the relation of 'husband' and 'wife.' The custom is for the 'wife' to live with the 'husband' in his house. They generally cleave together for life. The grounds of divorce are adultery, or disobedience. I object to a form of marriage being provided by law. There will be confusion under two systems of inheritance. Self-acquired property will never come to the Tarawâd. We have an example of the evils

among the Marumakkathâyam Mappillas. They are constantly involved in litigation from which the Nairs are free. The 'Puda muri' is the 5th of the 8 forms of marriage allowed to Hindus. There is no religious element in the ceremony. I have never heard of a North Malabar Marumakkathâyam woman leaving her 'husband' for any reason. Nor have I heard of a 'husband' sending away his 'wife' except on sufficient grounds.

Fathers generally provide for their children from self-acquisitions according to their pleasure. I am a Sthâni and a Malikhana holder. If a marriage law were made compulsory I should have no objection to it. However I don't want to turn into Makkathâyam.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct

Tellicherry, }
22ND MAY 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 8.

KIZHUREDAM KUNHI RAMAN VÂZHUNAVAR.

Veliambra amsam—Kottayam Taluk—Age 34.

Am a Sthâni and Manager of the tarawâd, though I am not the Kâranavan. I now submit my answers to the interrogatories.

Kâranavan's consent is not necessary to enable a woman to terminate a Sambandham. There is no restriction on capricious divorce. That is true for both Nayars and Tiyanas. There are many cases of polygamy and it is regarded as unobjectionable. I think there should be a marriage law made compulsory on every one; so as to avoid the confusion of two systems of inheritance in one and the same tarawâd. I can't say how the majority would vote on the question of a permissive marriage law. Of those I asked, some favoured it and some were against it. In case of the marriage of a minor girl I should wish that *her father* should be regarded as joint-guardian with her Kâranavan.

In case of intestacy I should wish half the self-acquired property to go to wife and children and half to the deceased's own tâvazhi, not to the Kâranavan as at present. Most people would like the existing law to be altered so that self-acquisitions might go to one's own tâvazhi instead of the tarawâd as at present. I would not do away with any existing caste or other customary restrictions on marriage.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22ND MAY 1891 }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 9.

A. NARAYANAN NAMBIYAR, B.A. B.L.,

Nittur—Tellicherry—age 25—High Court Vakeel practising at Tellicherry.

I am not the Kâranavan of my tarawâd. I have submitted my answers to the interrogatories. By 'marriage' in answer 20 I mean 'Puda-muri.' Polygamy is very rare now. There is no class of Marumakkathâyam people who wish for a permissive marriage law. If the act regulated marriage relation only I should have no objection. I am opposed to its interfering with inheritance. There is no necessity for a law of marriage. It is not necessary to restrict divorce. I consider that the father is the guardian of his children, and the practice of the country supports this. If the father is not the legal guardian of his

children the legislature ought to make him so. I think a judicial decision to this effect would suffice, if we could get it. It was a High Court decision which declared that the guardianship vested in the Kâranavan. If this cannot be set aside, I would resort to legislation to make the father guardian.

Taken down by me in the presence of the Commission, read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
22nd MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 10.

KALLÂT RAMUNNI.

Marumakkathâyam Tiyan—age 50.

Native of Anjarakkandi, Chirakkal Have resided at Tellicherry for nearly 20 years. Member of the District and Taluk Boards. Private individual. I have sent in my answers to the interrogatories. In regard to my answer to question 44, I wish to say that I would not fetter the power of testamentary disposition in any way. I don't find any person in favour of existing custom as to self-acquisitions. One party wants to leave them to wife and children. Another party wants to leave self-acquisitions to the Tâvazhi. Neither party likes the Kâranavan to get the self-acquisitions. The Marumakkathâyam Tiyans are only found between Kawai River and Kôta (or Murât) river. Every where else the Tiyans follow Makkathâyam. A man can neither marry in his own tarawâd nor his deceased wife's tarawâd. I think most Marumakkathâyam fathers would like their self acquisitions and separate property to go to their wives and children.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22ND MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 11.

KATHERI-EDATHIL KOLASHERI KUNYI KANNAN NAMBIYAR.

Nittûr amsam—Kottayam Taluk—Age 49.—Manager of tarawad.

Am the Kâranavan. I have six children—3 sons and 3 daughters—living with me in the tarawâd house. I have sent in my answers to the interrogatories. Answer 25:—If the woman and her Kâranavan agree, the woman can terminate Sambandham without any just cause. Answer 32:—I mean that the man and wife generally cleave together till death. I have heard many people express a strong objection to changing the old custom. The Kâranavan is the legal guardian of the tarawâd children and I would have him remain so. I have heard no one express an opinion favourable to the proposed legislation. I have consulted about 50 Nayars. The sons of a Sudra have no right to offer pindas for their father at Tirunelli in Wynâd. Anandaravans alone can offer such pinda. Nambudris form Sambandham with women in my division of caste. Sons do offer the pinda but they have no proper authority to do so. One of my daughters lives with her 'husband,' the other two are not yet 'married.'

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22nd May, 1891 . }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 12.

. NINGALÊRI KUNYAMBU NAMBIYAR.

Kandankunnu Amsam, Kottayam.—Age. 48—Adhigari of the Amsam.

Am Kâranavan of my Tarawâd. I have sent in my answers to the interrogatories. A woman cannot effect a divorce without the consent of her Kâranavan and Bandhûs. The consent of the Bandhûs (relatives) is requisite. They would be displeased with the Kâranavan if their consent was not obtained. I have never known an instance of capricious divorce. If a woman terminated Sambandham without grounds, her people would not associate with her. She would be regarded as an outcaste and then she would not be allowed to enter the temple. Such a case has never happened so far as I know. Question 38:—What I mean is that in our caste bride and bridegroom could never go together to the Sub-Registrar's office. I don't want a law that would force us to go to court for divorce.

I have got one son. He is 20. I have educated him from his birth. There may be about 2,000 Marumakkathâyam people in my amsam. I have never heard any of them say that they wanted a marriage law.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22nd May 1891 }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 13.

P. V. KUNYAMBU.

Pinarâi amsam—Age 40—Tellichery—2nd Grade Pleader—Municipal Councillor.

I have submitted my answers to the interrogatories. What Nayers call 'Pudamuri', we Tiyans call "Mangalam". It is not a binding marriage in the legal sense. Amongst Tiyans the union generally lasts for life. I want a form of marriage to be legalized by law. Polygamy is rare amongst Tiyans. I think it should be put a stop to by legislation compulsorily. I would have "Mangalam" dissoluble on reasonable grounds. I should consider reasonable grounds to be (1) Adultery (2) incurable and loathsome disease (3) habitual disagreement of temper. See my answer 42. The practice is to reserve a portion of self-acquisitions for the tarawâd. I believe $\frac{1}{3}$ is thought a proper portion. My inclination would be to give the whole to wife and children, and that is the tendency among the educated classes I believe.

I would exclude the Kâranavan from guardianship altogether. Cases of interference by Kâranavan with the father's *de facto* guardianship are very rare. I never heard of a case except one where the Kâranavan wanted to get the infant's property. I think for the last 20 years the majority of the educated Tiyans have been desiring legislation in the direction of Mr. Sankaran Nayar's Bill. Twenty years ago Mr. Churia Kanaran, deceased Deputy Collector, advocated a reform of this nature in communication with Mr. Robinson C.S. I suppose about 5 per cent of the respectable Tiyans are educated and enlightened.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
23rd May 1891 }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 14.

KANAKATHIDATHIL KRISHNAN VAZHUNAVAR.

Gannavam amsam—Kottayam—Age 60.

I have sent in today my answers to interrogatories. I am Tarawâd Kâranavan—Private individual. Amongst Nairs the Puda-muri union is a valid marriage. Most of such unions last for life. It is quite sufficient to leave things as they are. No legislation is necessary. Cases of polygamy are rarely found. Such liberty is necessary. No special ground is needed to justify polygamy. A woman should not have equal liberty with the man in this respect. Fathers customarily provide for their children from self-acquisitions. The relatives ought to be consulted in such cases. Some fathers provide for children without consulting relatives. Usage now freely allows a man to make Wills. No legislation is required to authorize it. I should wish my wife and children to have a share of my property in case I die intestate.

The wife should live where the husband wishes. If there is a conflict between husband and Kâranavan she should do what the Kâranavan wishes. I never heard of a Karanavan claiming possession of children as against the father. I have never heard any Nairs or Tiyans express a wish for a marriage law. The Nambûdiris form Sambandham with women in my caste. They go through all the forms of a Puda-muri; I am a Sâmantan by caste. The females who form puda-muri with Nambûdris, will not live with the Nambûdiri in his house. Generally our females form 'puda-muri' with Nambûdiris. When a Nambûdiri cohabits with a lady of a Kovilagam I don't know whether he does so by puda-muri ceremony. The 'puda-muri' ceremony is as binding on a Nambudiri as on a Nair. When the Nambudiri forms a union with a Sâmanthan female the female and her children will live in her Tarawâd house, and the Tarawâd maintains the Nambudiri 'husband.'

The term 'Kiriyan' Nair is never used by North Malabar Nairs in speaking of themselves. Two main divisions are into Agatha Chârnavar and Puratha Chârnavar. There are Charnavar attached to each Kovilagam in North Malabar. The Nairs of North Malabar will generally consider that they are attached to one or other of the Kôvilagams. A man will say that he is âl-kâran (adherent) of such-and-such a Kovilagam. If a man is âl-karan of a Kovilagam it is that Kovilagam which should settle all his caste disputes. The Kovilagams exercise that jurisdiction even now. The 'Madavan' division recognizes Nambudiris as their Ejamânan. Nevertheless even in such cases the Kôvilagam has the supreme jurisdiction in matters of caste. Every Nair will be under the jurisdiction of one or other of the Kôvilagams in North Malabar. There are three Kovilagams—Chirakkal, Kottayam and Kadathanad, in North Malabar.

For the Tiyans the Chirakkal Rajah has appointed a man to exercise jurisdiction in caste disputes. His title is 'Mannanâr.' He has jurisdiction in Chirakkal, Kadathanad and Kottayam. Amongst Nairs petty caste disputes are settled by the Nâdu-Vâzhis (chieftains.) There is an appeal from them to the Kovilagam.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
23RD MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 15.

PANANGADAN RAMAN.

Tirucangâd amsam—Kottayam—age 37.—High Court Vakil practising at Tellicherry.

Am a B.A., B.L. I have submitted my answers to the interrogatories. In the eyes of the Law, the "Mangalam" of Tiyans is not a binding marriage. The 'husband' can divorce without

reason. The 'wife' now does not exercise this power. There is a suit for restitution of conjugal rights now pending in Tellicherry, the woman having refused to live with her husband while undivorced. Amongst Tiyans the union of a man and woman usually lasts for life. I am in favour of a permissive form of marriage being provided by Law. There are many cases of polygamy amongst the Tiyans. I have heard what the last witness (14th) has said about the "Mannanâr". As regards Tellicherry none of us would acknowledge the Mannanâr's jurisdiction. We look up to certain elders who are called "Caste Kâranavans". Certain tarawâds possess this right of Kâranavanship. There would be no dispute as to who they are. I don't myself know how many there are. There are some instances of a Marumakkathâyam Tiyathi (female) being given in marriage to a Makkathâyam Tiyân in South Malabar. There is generally some reluctance on our part to countenance such unions. We regard the Makkathâyam Tiyans of South Malabar as somewhat beneath the North Malabar Tiyans, not because they follow Makkathâyam but because their social position is considered inferior. I find that the general feeling amongst the Tiyans here is that self-acquisitions should go to widow and children. Gifts *inter vivos* are often deferred till a man is on his death-bed. It is then often too late and children are thus left unprovided for. Cases of persons dying and leaving self-acquired property undisposed of are numerous. I think the practice is for about one half of self-acquisitions to be given to the children by gifts *inter vivos*.

Our objection to inter marriage with South Malabar Tiyans, may be because in South Malabar Tiyans and Izhuvars are found and we are not sure which is which.

Taken down by me in the presence of the Commission, read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
23RD MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 16.

EDACHÊRI KUNNATHA KRISHNAN NAYAR.

Age 21. 2nd School Master at Payyoli Mission School. I requested permission to give evidence before the Commission. Our "Pudamuri" I consider to be a valid marriage but the Law does not consider it to be so. I want a permissive form of marriage, but I object to some of the details of the Bill. I object to registration, and I would wish the present customary restrictions as to consanguinity and affinity to be entered in the Bill. In cases of intestacy not more than half of self-acquisitions should go to wife and children and the balance to the tarawâd. I should like to have a law of divorce which would not compel a resort to a court. The reasonable grounds of a divorce, I consider to be adultery, disobedience and contagious disease lasting for one year. I took part in the public meeting at Payyoli. The copy of the Proceedings of the Meeting now shown me is in my handwriting. I would prohibit polygamy. I am not prepared to suggest how divorce could be had without resort to a Court. I would wish the father to be the guardian of wife and children. That is all I have to say.

I don't at all want any part of the self-acquisitions to go to the Karanavan. I think half of self-acquisitions should go to a man's own Tâvazhi. I have passed the Middle School Examination.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
23RD MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 17.

CHEMBRA EDATHIL KANÂRAN NAMBIAR.

Age 29. I am an anandaravan managing tarawâd affairs. I belong to Maniyur amsam, Kurumbranad Taluk. I wish to represent that the people of Maniyur want no legislative change in their existing customs. The proposed changes would promote quarrels between sons and nephews. They now get on together in a way, without inconvenience.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
23RD MAY 1891 }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 18.

MANAKKÂDAN RAMUNNI.

Age 56—Marumakkathayam Tiyan—Petition writer, Tellicherry

What Nairs call "Puda-muri" the Tiyan call "Mangalam". It is not a valid marriage in law, but it is so according to social rules. I am in favour of a form of marriage being legalized. If a Tiyan has taken one woman to wife by "Mangalam" ceremony, he will not go through that ceremony with a second woman while the first marriage is subsisting. In such cases a second woman merely has the status of a concubine. I think a husband should be guardian of his wife and children and should maintain them. Personal attendance of the bride before the Registrar might be dispensed with, I think. Wife's father's brother's children, and wife's grand-father's brother's children are within the prohibited degrees. The Bill should recognize that all customary restrictions as to consanguinity and affinity should be retained.

The Tiyanis of South Malabar have no objection to form "Mangalam" with a Marumakkathâyam Tiyan of North Malabar. The Marumakkathâyam Tiyan of North Malabar may marry a Marumakkathâyam Tiyan of South Malabar, but she ought not to marry an Izhuvar.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22ND MAY 1891 }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 19.

KUNYAM VÎTIL RAMAN NAYAR.

Sivapuram amsam, Kottayam Taluk. Age 45. Adhigari and Karanavan of Tarawad.

I have submitted my answers to the interrogatories. The Majority are opposed to legislation in the direction of Mr. Sankaran Nayar's Bill. A few persons may be in favour of it. I am opposed to any legislation even if permissive. I strongly object to any change in the old custom. The "Pudamuri" is I think a sufficient marriage. If that is to be legalized I have no objection. If marriage were legalized in such a way as not to interfere with the present rule of succession I should not mind. I am in favour of polygamy on

proper grounds. Divorce should not be allowed except on sufficient grounds. I have never heard of a capricious divorce in my amsam. The sufficient grounds are adultery, incurable disease, disobedience, lunacy. A woman cannot divorce without her Kâranavan's approval, nor can a man divorce without his Kâranavan's approval. I think the Kâranavan should be the guardian of all children in his tarawâd. If a Kâranavan sees that a father neglects his children, the Kâranavan will remove them to the tarawâd house. I can't give any instance of the Kâranavan having done this. The Kâranavan's right to take the children from the father should be maintained when the interest of the children require it. I consider that a Kâranavan is bound to maintain all the children in his tarawâd, even if he has no tarawâd property.

I have three male Anandaravans living with me. All are married and two of them have children. They have no self-acquired property. I maintain all of them. My only niece and her four children are living with her husband in his house. This is in accordance with the general practice in North Malabar. Those who spoke to me in favour of the Bill are mostly Tiyan, very few Nayars. I heard 14th witness' evidence. I agree with him that every Nayar is under the jurisdiction of one or the other of the Kovilagams in matters of caste dispute. It is only in important cases that the matter will be referred to the Kovi-lagam. In small matters the caste men of the locality settle the dispute.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
23rd May 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 20.

MANIKÔTH KÊLAN.

Marumakkathâyam Tiyan.

Am an Anandaravan in my tarawâd. Mailânjanmam amsam, Kottayam Taluk, Age 55 Am an astrologer. I have submitted my answers to the interrogatories. The few in favour of the Bill are mostly Tiyan. Of the educated Tiyan the majority are in favour of it *i. e.* a majority of those to whom I have spoken.

I would give one-third of a man's self-acquisitions to his wife and children if he died intestate. In general I would have the father guardian of his children, but I would maintain in the Kâranavan power to interfere in the interests of the wife and children.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
23rd May 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 21.

PAYANÂDAN KUNYI KANNAN.

Dharmatam Amsam, Kottayam Taluk—Age 47.

Am Karanavan managing tarawâd. I have sent in my answers to the interrogatories. Answer 44 (b):—I mean if wife and children do not live with the husband and father when he wishes them to do so, they ought not to be able to claim maintenance from him.

Answer 40:—I should wish all customary restrictions on marriage to be maintained otherwise I am in favour of the Bill.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
23RD MAY 1891 }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 22.

PUVÂDAN CHERIA RAMAN.

Age 53—Marumakkathâyam Tiyan—2nd Grade Pleader—Cannanore—Native Amsam is Mailanjanmam, Kottayam.

I have submitted my answers to the interrogatories today. I have read Mr. Logan's account of the marriage ceremonies of Tiyans at Pages 16 and 17 of Appendix I. I do not consider it accurate. I think there would be no diversity in marriage ceremony in North Malabar among Tiyans.

I say that the Tâlikettu Kâlyanam and the 'Mangalam' take place as one ceremony on the day of marriage in all cases where the future husband has been fixed upon. I don't know the term "Adayâlam" as applied to the payment showing conclusion, of the bargain. I call that "Kânam" and I say the proper minimum amount is eleven fanams. The groom will not be accompanied by two men, but only by one man. What is stated about the uncle's son is correct. After the wedding-feast, the bride's party counts the guests, and the bridegroom's Tandân then pays the bride's Kâranavan a sum calculated at one or two fanams per head. This is called "Kanyi-Kânam" and will sometimes amount to a large sum. I know of suits having been brought to recover this Kanyi Kânam when the wife has deserted the husband without sufficient grounds. Such suits have always been dismissed. The amount, or part of it, is often recovered by arbitration amongst the caste people. There are variations as to the amount paid as "Kânam" in the sense I use the word.

I am in favour of legislation to legalize marriage. I think a majority of the Tiyans both educated and uneducated are in favour of marriage being legalized. Those who have large tarawâd property oppose it. I should say 70 per cent of the Tiyans are in favour of it. In the majority of cases the tâli-kettu takes place before a husband is fixed upon, because the tâli-kettu *must* be performed before the girl attains puberty. According to ancient practice the tâli would always be tied by a barber-woman. The practice of getting it tied by the proposed husband dates from about 30 years back, and was introduced by Mr. Churia Kanâran (Deputy Collector) supported by Karai Bâppu, merchant, and all the chief Tiyan officials. We Tiyans never term marriage as Mangalam. Mangalam is a new-fangled term. The proper word is "Pen-Vâzhcha". When we say Kalyanam, we mean Tâli-kettu-Kalyânam. Fathers possessing self-acquired property generally settle from $\frac{1}{4}$ to $\frac{3}{4}$ on their wife and children. Some persons give all their self-acquisitions to the wife and children. Some give all to the tarawâd. The father in my opinion should be guardian of his children *De facto* he is now generally the guardian. Where the father ill-treats his children I would reserve for the Kâranavan a power of interference.

If the new Act forbade polygamy, I should still wish for it. If adultery be made the only ground on which a wife can be divorced, I should still wish for it. The ceremony called "pen-vâzhcha" will never be undergone with a second woman while the first 'wife' is alive. If a Tiyan takes a second woman during his wife's life, she is never brought into the same house with the 'wife' and is merely regarded as a concubine. She is called Veippâti. The connection is called "Vilâram Kayruga". I think polygamy may be prohibited. In North Malabar a woman never at any time has been allowed to take two husbands

at once. The Tiyan wife in North Malabar customarily lives with the husband and the husband maintains and educates the children. She never lives in the tarawâd except for tarawâd necessity and with her husband's permission.

Adultery is the only reasonable ground of divorce. Some few consider that "bad temper" is a sufficient ground of divorce. The caste Kâranavans sometimes permit a divorce for incompatibility of temper. Sometimes a second 'marriage' is permitted where the 1st 'wife' has an incurable disease.

When the *Kânam* is paid at a wedding, a middle-man called *Nadukâran* proclaims "a youth (naming him) of such and such an Illam is hereby married to such and such a girl of such and such an Illam" The one form of marriage known as "Pen Vâzhcha" prevails amongst all North Malabar Tiyans as the only recognized proper 'marriage.' All I desire is that the approved incidents of marriage should be attached by law to our Tiyan marriage, in the simplest possible way.

I would retain the customary restrictions as to consanguinity or affinity. Marriages are never or very seldom contracted by an Anandaravan without the Kâranavan's consent. When a man divorces his 'wife,' his Kâranavan communicates the fact to the wife's Kâranavan in the presence of witnesses. This is called "Nyâyam Kodukka," or "âcharam tîrkka."

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Cannanore, }
25TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 23.

KÂRÂI KRISHNAN.

Marumakkathâyam Tiyan—Age 38—Tellicherry Amsam—Sub-Registrar of Cannanore.

I have submitted my answers to the interrogatories. I have heard Mr. Puvâden Raman's statement. I concur in his account of the Tiyans' usages. In all important respects I agree with his opinion as to the expediency of legislation to legalize marriage.

A woman can terminate a union by simply leaving, and stopping away from, her husband for a year—one Ōnam and Vishu. If the husband wants to get rid of his wife he simply sends her away from the house. I would make adultery the only ground for divorcing a wife. On decease of a wife intestate, I would have her self-acquisitions go to her children only and would thus prevent the possibility of the husband giving his share to offspring by a second marriage. I would have the power of making a will free of any restriction. In 1878 my father gave me and my sister some landed property representing about $\frac{1}{8}$ of his self-acquisitions. The rest went to the tarawâd. People usually now leave from $\frac{1}{4}$ to $\frac{3}{4}$ to the children. Something is generally reserved for the tarawâd. The present inclination of fathers is to give the whole of their self-acquisitions to their children. In case of a man being the last member of his divided tâvazhi I would have his property go to the attâl-adakka-kâr and not to his children.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Cannanore, }
25TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 24.

MÂMBEYIL SANKARAN MÂRÂR.

Age 32—Puzhâdi Amsam—Chirakkal.

Am a second Grade Vakeel practising in Cannanore. Am a Matriculate. I think legalization of marriage is generally desired by the Mârâr, Vâriyar, Pishârôdi and Nambishans (temple Nayars) and by Nayars generally, by such of them as are educated. I can't speak about the uneducated. I should say 20 per cent. of the above named classes are educated. I am the Kâranavan of my tarawâd. 'Puda-muri' is considered by my class, Mârâr, to be the proper form of marriage. When Nambudiris and Patters contract a union with a woman of the Mârâr, Vâriyar, Pishârôdi and Nambishan caste, it is by 'Puda-muri.' I cannot say whether our women would like to give up the present practice of consorting with Brahmans. The Brahman will call himself the "Bhartâva" (husband) of the woman. I think both Nambudiris and Patters would do so. Where a woman's consort is a Brahman she will generally live in her own tarawâd house. There is no objection to one of our women living with her Nambudiri consort in a Nambudiri illam. In such cases her food is given to her by the Nambudiri females, as she cannot enter the kitchen. Where a man is the last member of a divided tâvazhi, I think the claim of the attâl-adakkakâr should prevail over that of the children. In case of intestacy I think the self-acquisitions should go to children and tarawâd half and half. I would allow the Kâranavan's right of guardianship to prevail where a father abused his right by neglecting or illtreating the children.

I think adultery should be the only recognized ground of divorce. Desertion by either party for one year is now accepted as a sufficient divorce. I think it would be rather better to abolish this practice, and I believe that to be the general wish. I object to the provisions as to registration because our women object to go to public offices. To obtain the attendance of the Registrar entails expense and most of our classes are very poor. Speaking for the Mârâr, a man might marry into his deceased wife's tarawâd. I don't know about the other divisions. Marriages are generally contracted by a man with his Kâranavan's consent. As to divorce the Kâranavan is not always consulted. His assent is not indispensable.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Cannanore, }
25th May 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 25.

KUNNATHA MANAYIL SUBRAMANIAN TIRUMUNBU.

Age 50—Payyanûr Amsam—Chirakkal Taluk—Kâranavan of the tarawâd—Marumakkathâyam Nambudiri.

The marriage ceremonies of the Marumakkathâyam Nambudiris are just the same as of the Makkathâyam Brahmans. We only intermarry in our own Grâmam (villages). As all the people of the Grâmam live close together there is no settled practice as to the wife's residence. Sometimes she lives with her husband; sometimes in her own illam.

Our marriage ceremonies are the same as all the Nambudiri Brahmans observe. So far as marriage is concerned we are under the ordinary Hindu law. I have janmam property paying about Rs. 200 to Government. I have about 50 tenants, Tiyan and Nayar and Idayar. Our people require no new marriage law; nor do any of my neighbours of other castes. Some of my Nayar tenants can read and write. Few of the Tiyan tenants could do so. I can only speak for my part of the country. People here, at Cannanore, may want such

a law for all I know. Payyanûr is 24 miles from Cannanore. Amongst Nayers there may be rare cases of adultery on the part of the woman, but it is no where recognized in North Malabar that a Nayar woman should have two husbands at the same time. Polygamy is rare. There may be one case in a hundred marriages. I know of no instance now of a Nayar having two wives. I knew of a case some years ago.

Divorces may be brought about by a quarrel between the two families, or between husband and wife. There is no rule restricting divorce to any certain ground. Amongst the Nayers there is no caste enquiry or punishment if a woman has sexual intercourse with a stranger of an equal or higher caste with whom "Puda muri" might be contracted. In such cases most husbands would send the woman away. Some husbands might overlook it, for some reason or other. If a Nayar woman committed adultery with a lower caste-man she would be turned out of caste. I have never heard of a Nayar woman having to be out-casted in this way. Most unions among the Nayers last for life. Amongst the higher divisions of Nayers and amongst educated men, perhaps 5 per cent may divorce a wife. Amongst the lower sort, who indulge in liquor, perhaps 50 per cent change their wives. Nayar divorces are generally caused by litigation between the two tarawâds about land, by quarrels regarding non-contribution to ceremonies, adultery &c. After divorce the father sometimes still contributes to the maintenance of the children. Some of the grown-up children will occasionally remain with the father after the mother has been divorced.

Amongst the Marumakkathâyam Nambudiris, there is no objection to each of the adult males in a family marrying a Nambudiri female. Our males like other Nambudiris consort with Nayar females by "puda muri," and exactly the same ceremony is gone through whether the husband is a Nambudiri or a Nayar. We Nambudiris don't look on it as marriage, because there is no Mantram or Karmam (ritual.) Most of the Nayers in my locality do not settle any property on wife and children by gift *inter vivos*, because they regard their nephew as the proper heir. The number of cases in which the Nayar wife lives in her husband's house may be about equal to the number of cases in which the wife lives in her tarawâd house. All well-to-do people amongst the Nayers would have their wives living with them. Amongst the Marumakkathâyam Nambudiris the husband is not the guardian of the wife and children. The Kâranavan of the wife's natural tarawâd is the legal guardian. The wife can never be divorced, or marry again after becoming a widow. No doubt this raises great difficulty. There are many cases in which the wife's duty to her husband is in conflict with her duty to her Kâranavan. There is no help for it. Amongst us the Marumakkathâyam Nambudiris, the wife does not change her illam or gôtram by marriage. The husband and wife belong to two different gôtrams. The wife retains her mother's illam name. So do her children. Amongst the Marumakkathâyam Nambudiris, we have hardly any men with self-acquisitions. We have got plenty of debts. Self-acquisitions, if there were any, would lapse to the illam in case of intestacy, unless the husband made a gift to his wife *inter vivos*. We do occasionally get a Makkathâyam Nambudiri husband to marry a woman in our illams. He comes and lives in our grâmam, and is supported. It entails no disgrace upon him with his own family.

Amongst us the tâlikattu and the pânigrahanam both are necessary parts of Vivâham (marriage.) The tâlikettu takes place immediately before the pânigrahanam. The husband has no right to tie the tâli. The mother of the bride ties it. There is no pânigrahanam among Sudras. I think the Nayar tâlikettu was instituted in imitation as far as possible of the Brahman Vivâham. In the "puda muri" there is nothing of a religious nature—no religious element. It simply consists of the cloth giving, and gift of money. For the tâlikettu an auspicious hour must be fixed and this is a religious element. For the "puda muri" ceremony there is no necessary Muhûrtham. In the "Vidâram Kayruga" there is no cloth given. The "puda muri" should be celebrated if the union is to be regarded as respectable. I know of no case of a Nayar man going through "puda muri" with two women, but there is certainly no objection. In case of "Vidâram kayruga" the woman always is visited by the man at her house. The woman is still called "bhârya." She would never be called Veippâti or Concubine.

The Kêrala-Mahâtmyam, I have seen as a grantham in Tâzhékkât mana. It is reputed to be the composition of Vyâsa Rishi. I am a Sanskrit scholar. I have never met any reference to the Kêrala-Mahâtmyam in any Sanskrit book. I have a grantham regarding the 64 Anâcharam supposed to have been composed by Sankarâchâriar. There is no reference in it to Kêrala Mahâtmyam.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
25th MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 26.

POTHÊRI KUNYAMBU.

Second Grade Pleader Cannanore—Age 34—Puzhâdi Amasam.

I have sent in my answers to the questions. I heard Mr. Puvâdan Raman's evidence. I may say that I agree with him on all essential points. I should say that it is always the barber woman who ties the tâli at a Tiyan tâli-kettu. I think the details may fluctuate a good deal in different dêsams. I am an anandaravan in my tarawâd. Am a Matriculate. There are more educated and influential Tiyans in the vicinity of Cannanore, than in the rest of the Taluk. Any new custom adopted by the Tiyan community in Cannanore is gradually adopted by Tiyans throughout the Taluk. I think a majority of the educated Tiyans are in favour of the proposed legislation—perhaps 50 per cent. may be. Of the uneducated some are in favour ; others don't understand the matter and are neutral.

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Cannanore, }
25TH MAY 1891 }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 27.

ÂYILLATH KUTTÊRI ANANDAN NAMBIYAR.

Age 49—Irivêri amsam—Chirakkal—Kâranavan of Tarawâd.

Belong to same tarawâd as District Munsiff Châthu Nambiyar, but to a divided tâvazhi. Am adhigari of Irivêri amsam, 8 miles north east from Cannanore. I have to-day submitted my replies to the interrogatories. People are satisfied with the existing state of things as to marriage customs, and want no change. I have consulted two or four persons and they were of this opinion. People say generally that there is no need of a marriage law. Both Nayars and Tiyans think so. I only speak of my own amsam. There are no people in my amsam who have studied English. The population of Irivêri is 3000 odd.

Some fathers provide for their children by gift *inter vivos*. Only a few do so. They will give half of their self-acquisitions to their children. A Nayar woman will never have two husbands at the same time. Cases of polygamy are very rare. I can't remember a single instance of polygamy in my amsam. I know of an instance in Mâniyur amsam. There was no justification for it. Both wives lived with him in his own house. He united himself to both by 'puda-muri' ceremony. That polygamous union is still continuing.

The 'puda-muri' is dissoluble at will by the husband. The wife can't terminate the union except with her Kâranavan's and kinsmen's consent. The union of a man and woman, as a rule, lasts for life. I can't remember a single instance of divorce in my amsam. As adhigari I know about all that goes on in my amsam. Incurable disease, disobedience,

disability on the part of the husband to maintain wife and children properly, adultery on part of either man or woman, are considered reasonable grounds of divorce. There are three tâvazhis in my tarawâd divided 30 years ago. The three have now no community of interest. My tâvazhi now occupies three separate houses. We have, some of us, received gifts of property from our father. Our tarawâd women live with their husbands. The males of my tâvazhi have all their wives living with them in three houses. The wife must leave her husband's house before his corpse is removed out for cremation. In my part it is invariably a Brahman who ties the tâli. When the wife is sent away from her husband's house on his death, the heirs present her with cloths and money according to their means. 32 fanams is the minimum. This is intended to be for one year's maintenance. After the 41st day after husband's death, his heirs will go to the widow and pay her a further sum and some cloths according to their means. The 41st day completes the funeral ceremonies. For the 41 days the son offers funeral cakes for the father on each day. So do the nephews also. On the 41st day a feast to Brahmans, kinsmen and friends is celebrated by nephews and sons. The nephews and sons each celebrate it in their respective houses. Sometimes the sons and nephews observe diksha for a twelve-month. In the case of death of a Rajah or Brahman father there is no diksha nor do the sons perform any funeral ceremonies. A Nayar's nephews are the persons bound to perform his funeral ceremonies, but the sons have also done so from time immemorial. I think the law should provide that half a man's self-acquisitions should go to his children in case of intestacy. I also desire the power of testamentary disposition of self-acquisitions. There is no religious element in our "puda-muri" ceremony.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26TH MAY 1891, }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 28.

KOTIETH KÔRAN VAIDIYAR.

Marumakkathâyam Tiyan—Anjarakandi Amsam—Chirakkal Taluk—Age 65—Native doctor—Kâranavan of the Tarawâd.

I have no objection to a permissive marriage law if proper freedom of divorce be maintained. Misconduct, bad temper, incurable disease, should enable a man to divorce or to marry again.

Only half a man's self-acquired property should go to his wife and children. I would restrain a man's power of alienation of self-acquisitions to one half, the other half should go to the whole Tarawâd, not to Tâvazhi. The act should define 'self-acquired property,' or there will be constant disputes. I would define self-acquired property as property of which the title deeds are in the husband's name. Females should be exempted from appearance before the Marriage Registrar. Polygamy should be abolished. It is usual for even adults to obtain the Kâranavan's consent to marriage, but it is impossible to prevent marriage if two adults determine on it. The Tiyans are divided as to the expediency of the proposed legislation. Most of those I have spoken to are for it. Anjarakandi is twelve miles from here. I have spoken to several, both in my amsam and in the neighbouring amsams. There are very few Tiyans in my neighbourhood who have studied English.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 29.

MAYIL MÂNIKKOTH KÔMAR NAMBIYAR.

Age 51—Adhigari of Kairalam, Chirakkal Taluk.

Am Kâranavan of my Tarawâd. I have sent in my answers to the interrogatories. I am in favour of the proposed legislation. Females should not be compelled to attend before the Registrar. The fee should be as low as possible. I approve entirely of section 44 of the Bill. Adultery is the only just ground of divorce for either man or woman. Capricious divorce would not now be tolerated in any respectable tarawâd. In my amsam and the neighbouring amsams, most of the people with whom I have spoken are in favour of the Bill with the proviso that females should not be compelled to appear before the Registrar. The population of my amsam is 4,000 and odd. It is 16 miles from here N. E. The women in a Nayar family do not engage in discussion or talk with the senior males. Most of them know nothing. Those who are intelligent are greatly rejoiced at hearing about the Bill. I advocate their exemption from appearance before the Registrar, because the women with whom I have spoken so object to it. The Nayar women will not even generally speak to the senior males in their own tarawâd except if there be special occasion. The elderly females may talk with visitors who come to the house.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 30.

KANDÔTH CHÂTHU NAMBIYAR.

Age 80—Edakkâd amsam, Tarawâd Kâranavan managing tarawâd.

No one wants any change in existing custom. I don't want it; nor does any one else. I have not heard anything about the subject until 10 days ago. I live 4 miles from Cannanore. As far as my knowledge goes no one, either Nayar or Tiyaṅs, desires a change in long established and revered customs instituted by Sri Parasu Râma, when he created the land of Kêralam. I am representative of a chieftain family, holding land from Government at a favourable rate. I pay Rs. 700 odd to Government.

Taken down by me in the presence of the Commission.

NOTE.—This witness was very deaf and the nature of his evidence made it unnecessary to read over the deposition to him.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 31.

ARAYATHA CHÂTHU NAMBIYAR.

Age 40.—Chembilôd amsam, 5 miles East of Cannanore.

Am anandaravan in my tarawâd—Adhigari of the amsam. I have not written replies to the interrogatories. In my neighbourhood the people are divided as to the expediency of

the proposed marriage law. The majority are against any change. Those in favour of change desire that their self-acquired property should go to their wives and children. My own opinion is that half a man's self-acquisitions should go to his children. That is what all those in favour of change would wish. Respectable females would consider it a great disgrace to be forced to appear before the Registrar. If the Registrar attended the marriage that would not be objectionable. Capricious divorce should, I admit, be restrained. Adultery, permanent sickness, are the usual grounds of divorce. I can't mention a single instance in which a Nayar has divorced his wife in my amsam. The population is about 4,000. I belong to a tarawâd which formerly was a Nâdu-Vâzhi (chieftain) family. We have ardha-mâniyam land and I pay about Rs. 200 Government assessment. There are four leading Nâdu-Vâzhi tarawâds in Edakkâd amsam, and mine is one of them. I think about 700 people in my amsam might be in favour of marriage legislation. Nayar ladies generally live with, and are maintained by, their husbands. Husbands *de facto* look after and maintain their children. The Kâranavan only interferes with the children when the father dies or is unable to maintain them. I have heard the people discussing the desirability of legislation to legalize marriage for the last 3 years. Most of the 700 in favour of legislation would be Nayars.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 32.

PALLIYATHA CHANDU NAMBIYAR.

Age 56—Chembilôd Amsam—Tarawâd Kâranavan.

I agree with the last witness that half of a man's self-acquisitions should go to his wife and children in case of intestacy. The other half should go to the man's own tâvazhi, not to the distant manager of the tarawâd.

Now the practice is for a Nayar to support his wife and children as long as he lives. If the new law is in accordance with this I see no objection. As far as I have enquired I should say that all the people in my amsam are against legislating to legalize marriage. Power of testamentary disposition over self-acquired property is certainly necessary. I pay over Rs. 400 as assessment to Government.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 33.

VENGAPETTA APPI.

Marumakkathâyam Tiyan—Anjarakandi Amsam—Chirakkal—Tarawâd Kâranavan.

My tarawâd is called *Kunathur*. Vengapetta is my father's house name, which I have adopted. I heard what 28th witness Kôran Vaidiyar said and I agree with it. In Anjarakandi a majority of the people are Tiyans. I would not however fetter a man's power of alienating self-acquisitions. I think a majority of the Tiyans in Anjarakandi desire the proposed legislation. We have been discussing the matter for some time past. I took my father's

name because he gave me his property. The adoption of the father's name is a common practice amongst the Tiyans in North Malabar. They adopt the father's house name in addition to the Tarawâd name. I pay about Rs. 250 assessment to Government. My tarawâd is the wealthiest in my amsam. My father gave half his property to me. Half he divided between his younger brother's children and his attâl-adakkakâr. His property was partly ancestral and partly self-acquired.

Taken down by me in the presence of the Commisison ; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

• Witness No. 34.

VÉNGAYIL KANNAN NAYAR.

Kâranavan of the Tarawâd—Age 52—Kuttûr Amsam, Chirakkal Taluk.

My Tarawâd pays a Revenue of about Rs. 5000. My tarawâd pays the highest assessment in my amsam. In my amsam and the neighbouring amsams I have about 5000 tenants. The majority of the people do not desire a marriage law. No one desires it either in that amsam or the neighbouring amsams. I have both Nayar and Tiyans tenants. They are about equal in number. I have spoken to many about this Bill. They are all against this Bill. 'Puda-muri' is considered a binding marriage. It is so both among Nayar and Tiyans in North Malabar. Divorce is rare. The union generally lasts for life. The population of my amsam is between 3 and 4,000. My amsam is twentyfive miles distant from here in the northern direction. Leprosy, incurable diseases, adultery are the usual grounds for divorce. I don't now remember any case of divorce in my amsam. The husband or wife must consult his or her relations and obtain their consent to effect a divorce. That is the usage of North Malabar. There may have been instances of divorce amongst poor people, but I don't remember an instance among respectable people. Fathers do in some cases give property to their children. Father not having members of Tarawâd, will give some share of his property to his children. If a man has property worth Rs. 10,000 he gives about 2 or 3000 to his children. He also gives something out of the income of tarawâd property to his children. The anandaravans do not generally object. It is only out of the income of the Tarawâd that any gift is made. Fathers give one fourth to half of their self-acquired property to their children. No respectable man will say that the present 'Puda-muri' is not a binding marriage. The permissive marriage law will create dissensions among Enangans, or caste men. Litigation would follow. Adultery with another man's wife ought to render the adulterer punishable. A man who entices away another's wife ought to be punished. If that is not the law, the law ought to be amended. Respectable people don't countenance polygamy. Anything which would be considered to justify divorce might also be considered to justify a second marriage, amongst the lower sort. A woman can divorce for any reason that would justify a husband in divorcing. No Nayar here takes a second wife without divorcing the first unless he is a "pokkiri" (disreputable character.) Bigamy is now a caste offence. It should be punishable under the Penal Code.

After the days of mourning are over, the heirs of a deceased husband go to the widow and tell her that as the man is dead the marriage is dissolved, and they pay her some money and cloths. Unless this ceremony was observed the widow would not consider herself at liberty to remarry. In case of rich people the sum thus paid by the heirs to the widow might amount to Rs. 200. Poor people would give 2 or 3 rupees. If a father die without providing for wife and children, it is the practice for his tarawâd to provide for his wife and children out of his self-acquired property. I myself have given part of my deceased Kâranavâ-

van's self-acquisitions to his wife and children. If the widow and children are unprovided for, the deceased husband's Kâranavan will often maintain them in his house. The father is now the *de facto* guardian of his children. The Kâranavan very rarely interferes with them, although he has the legal right. I cannot now remember any instance of the Kâranavan interfering with the father's *de facto* guardianship. 'Tâlikettu' and 'puda-muri' are both old customs. In the Tâlikettu a Brahman pours consecrated water on the girl's head. In 'puda-muri' gifts are made to Brahmans, but there is no religious element in the ceremony. Marriage is forbidden in one's own or one's deceased wife's tarawâd. Nayar women would object to appear before a Marriage Registrar. As the marriages are celebrated with publicity in the presence of many respectable people, what other evidence is needed? In cases of intestacy it is not desirable to provide that self-acquisitions should go to wife and children. The Marumakkathâyam heir will always provide for them sufficiently. The caste people would insist upon it. No law to compel such a provision for children is therefore wanted.

Taken down in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
27TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 35.

MÂNIKKOTH KRISHNAN NAMBIYAR.

Age 64—Kuttiyatâr Amsam, 12 miles North-East of Cannanore.

Pay Rs. 120 and odd assessment. Am Kâranavan of Tarawâd. I have heard what the last witness has said. I see no necessity for a new marriage law, but I see no objection to legalizing the present form of marriage known as "puda-muri". When a Nayar dies intestate leaving self-acquired property it is the custom for his tarawâd to provide for his wife and children. It will only be a small share, according to the pleasure of the heirs. Some fathers provide for their children by gifts *inter vivos*. It is impossible to say what share is generally given. I can see no use in providing a law to legalize a practice already in vogue. If a law must be passed, I would give $\frac{1}{4}$ of self-acquisitions to wife and children in case of intestacy. I am not in a position to say what the feeling of the Nayars generally is. Mine is one of the big tarawâds in my amsam. The practice here is for the father to be the guardian and protector of his children as long as he lives. Then the Kâranavan will protect them. I know of no instance in which the Kâranavan has used his power as guardian against the father. The Kâranavan's consent is requisite in cases of marriage and divorce. Both man and woman should obtain their respective Kâranavan's consent. In a 'Vidâram Kayruga' marriage the only difference is that the wife remains in her own house and no cloth is given. The woman must have her Kâranavan's consent, and is regarded as a wife and is called "bhârya". If the wife is to be brought to the husband's tarawâd house the 'puda-muri' ceremony must be gone through in every case.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
27TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 36.

VALIYA VÎTTIL RÂMAN MÂRÂR.

Malappattam amsam, 16 miles East of Cannanore—Tarawâd Kâranavan.—Age 64.

I pay 70 and odd Rupees assessment. Most people are against a marriage law altering existing custom. If the existing customs are unaltered I see no objection to "puda-

"muri" being recognized by law as a legal marriage. People could not afford to pay the Registrar to attend a marriage. I suggest that the Adhigari and Menon should attend, and register the marriage in a book, which should be deposited in the Taluk, at the end of each year. I know of cases in which Nayars have three, or even four wives at the same time. They are not generally respectable men. Personally I think, polygamy should be stopped. I should say the majority of the people are opposed to the proposed marriage law, but a minority desire it. Those who love their wives and children want the Bill; those who love their anandaravans don't want the Bill. Amongst those who desire the Bill, both educated and uneducated, Nayars and Tiyans, and persons who have studied English may be found. Adultery, disobedience and barrenness are the customary grounds of divorce and they should be upheld. The Kâranavan's consent is usually obtained for "puda-muri" and for divorce. If an anandaravan married or divorced without Kâranavan's consent, his maintenance would be stopped. The wife would not be allowed to reside in the husband's Kâranavan's tarawâd house.

If a man is the last survivor of his tarawâd and has no relatives possessing "Mudal Sambandham," I would let the property go to his wife and children.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
27TH MAY 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 37.

KORÔTH VÎTTIL KRISHNAN NAMBIYAR.

Mundêri Amsam, Chirakkal—7 miles from here North-East—Age 46.

Kâranavan of my Tâvazhi. Five or six Tâvazhis in my Tarawâd living separately, and enjoying property separately, but not divided in interest. I have been invited to attend. My Tâvazhi pays Rs. 170 to Government. The whole tarawâd pays about Rs. 270. I am the Adhigari of the amsam,—now on leave. The population of my amsam was over 5,000 in 1881. I think the number of Nayars and Tiyans would be about equal. The Tiyans are all Marumakkathâyam. It is the ceremony of 'puda-muri' which makes a couple man and wife. In tâli kettu a Brahman ties the tâli. This is not a marriage. There is no religious element in 'puda-muri' form of marriage. There is another form of marriage called 'Vidâram kairuga.' In that no cloth is given, but the parties live as man and wife. The woman has the same status as if 'puda-muri' was performed, but she is not brought into the husband's house. If she is to be brought into her husband's house she must go through the 'puda-muri' ceremony in full. I am not acquainted with the customs of the Tiyans. Many Nayars perform *Vidâram-kairuga* marriage first and 'puda-muri' with the same woman afterwards. The reason for preferring *Vidâram-kairal* is that it entails little expense. The *Vidâram-kairal* is not restricted to a man who marries a second wife in the life-time of the first. Virgins may be married by *Vidâram-kairal*. The only difference is that until 'puda-muri' she cannot be brought into the husband's house. In my opinion there is no objection to passing a permissive marriage law. I have been sick and on leave and I don't know what the public feeling is about the Bill. I have not considered what are the proper restrictions as to consanguinity and affinity. Fathers do generally give property to wife and children from their self-acquisitions. There is no rule as to the portion. Each man follows his own idea. If a man died intestate, half his self-acquisitions should I think go to his wife and children. When widow and children are left unprovided for, sometimes the father's tarawâd takes care of the orphans in the father's tarawâd house. No property will be given to them generally. Some tarawâds may give, if the deceased has left self-acquisitions. Gifts to the orphans from the property of their father's tarawâd are very rare. Wives generally

live with their husbands. Fathers are the *de facto* guardians of their children. I know of no instance of a Kâranavan interfering with the father's *de facto* guardian-ship. There are rare instances of polygamy. I don't remember any existing instance. Polyandry is an unheard-of thing in North Malabar. Disobedience, barrenness, adultery are the customary grounds of divorce. I have heard that there is no formality necessary. Anandaravan should not take a woman by 'puda-muri' without his Kâranavan's consent: neither should he divorce without such consent. I have never heard of a divorce brought about by a quarrel between the tarawâds of the husband and wife. Polygamy ought to be stopped, I think.

I object to brides having to appear before the Sub-Registrar. If the Registrar attends at the place of marriage I see no objection. I would retain the customary caste restrictions on marriage.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore }
27TH MAY 1891. }

H. M. WINTERBOTHAM

Collector and Commissioner.

Witness No. 38.

TIRUMÂSHI RAMA PODUVÂL.

Age 32—Taliparamba, 14 miles from Cannanore. 2nd Grade Pleader.

I am not the Kâranavan of my Tarawâd. I have submitted my answers to the interrogatories. I was educated at Cannanore, and am a Matriculate. I am in favour of a permissive form of marriage being legalized. A majority would probably object to 'puda-muri' ceremony being dispensed with. A majority would object to the bride having to appear before the Registrar. In cases of intestacy, I would have half the self-acquisitions go to the tarawâd and half to the wife and children. I agree to the other proposed rights as specified in section 44. I would retain the restriction on testamentary disposition. Wherever the Kâranavan's interference with the father's right of guardianship was for the good of the children I would give him the right of interference. I don't know of an instance in which on a man's death, his Marumakkathâyam heirs have made a payment to the widow equivalent to one year's provision for her and her children. I have heard that there is such a custom in some parts. In North Malabar, wives generally live with their husbands. If the husband has a separate house he maintains his wife. If he lives in his Tarawâd house his Tarawâd maintains her. I would retain polygamy on just grounds. I would retain customary marriage restrictions as to caste, consanguinity and affinity. I would retain the restriction of intermarriage between Nayars North of Kôrapuzha and Nayars South of Kôrapuzha. I attach no weight to the objection that the proposed law would create dissensions in families. The present union is dissoluble at the will of either party. It often happens that the husband divorces a wife. It rarely happens that a wife divorces her husband, though she has the power. In Taliparamba, I have witnessed 8 or 10 divorces amongst Nayars, Poduvâls, and Vâriars. Adultery, incurable and contagious disease, serious disobedience on part of wife are the usual grounds of divorce. I have known no instance of capricious divorce. I object to being obliged to resort to a court for divorce, but I am unable to suggest any alternative. I would not permit arbitrary divorce, but that is better than being dragged to court. I would have adultery, and enticing away a married woman made penal. The woman might be examined in such cases on commission. If a marriage law modified as I have suggested, were granted it would be popular with a majority of the people. At Taliparamba there are about 20 men educated like myself. I have only spoken to three or four about the Bill.

Two or three of them are in favour of it. I have spoken to some uneducated people and found some of them in favour of the Bill. I can't say approximately to how many I have spoken.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Cannanore,
28TH MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 39.

KÂNYIRANGÂTTA SHANGUNHI MENON.

Taliparamba amsam.—Age 46—2nd Grade Vakeel.

Am Anandaravan in my Tarawâd. I can't speak English. I am in favour of a permissive marriage law. I have heard what last witness says and on most points I agree with him. I would not recognize the Kôrapuzha restriction. In case of intestacy, I would give only $\frac{1}{3}$ to wife and children and $\frac{2}{3}$ to tarawâd or tâvazhi. It would be better if the two-thirds went to the tâvazhi. I would postpone the tâlikettu till after puberty, and make that the valid marriage, doing away with 'puda-muri.' According to practice the man who ties the tâli does not cohabit with the girl, but he ought to be looked on as the husband. The meaning of the ceremony is that the man who ties the tâli should be the husband. In practice this is not now followed. I don't think registration should be indispensable. The present publicity should be sufficient as in the case of Makkathâyam marriage. If registration is indispensable, it might be performed before the Amsam Adhigari and Menon. Even if the Adhigari were a Mappilla, he might come to the house. Intelligent people think that the proposed legislation is desirable. I have spoken to 20 or 30 people on the subject. About half were in favour of the measure. The majority in my Amsam are uneducated. Even amongst them there is a difference of opinion as to the Bill. I have lived for 22 years in Taliparamba. My tarawâd is at Kottayam in Travancore and pays Rs. 500 assessment. I have not given up my domicile of origin. If I become Kâranavan I might probably return to Travancore. I married in Calicut.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore,
28th MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 40.

MUTHÊDATHA ARAMANAKKAL KUNYI KÊLAPPAN MANNANÂR.

Marumakkathâyam—Mannanâr is a dignity conferred on my Tarawâd by the Chirakkal Rajah. It is hereditary—Age 34—Kanyilêri Amsam.

Our Sthânam is intended to afford a place of refuge to Nambûdiri females who have been turned out of caste for adultery with Nambudiris. I am the authority to decide caste disputes amongst Tiyaṅs. If my jurisdiction is invoked I exercise it, but otherwise I do not do so. If one side appeals to me that is enough to give me jurisdiction throughout North Malabar. Most fathers now provide for wife and children by gift *inter vivos*. Each man gives according to his pleasure. If he is the last member of his tarawâd, with no relatives but attâl-adakkakâr, he will take care to give the property to his wife and children while he is alive. In cases of intestacy one-third might be a fair share to give to wife and children.

the balance should go to the deceased's own tâvazhi, not to the tarawâd Kâranavan, I believe the people wish to retain existing usages, so far as I know. I think an adulterer with another man's wife ought to be punished, but as existing custom does not permit it I have no definite opinion. Divorce is considered an adequate punishment for adultery. Amongst the North Malabar Tiyans the wife lives with the husband, and he maintains her and the children. All the North Malabar Tiyans are Marumakkathâyam.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
28TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 41.

ERAMBÂLA KÂMÂRAN NAMBIYAR.

Age 58.—Kaliyasheri, 8 miles from Cannanore.

Am anandaravan managing Tarawâd. I have sent in my answers by post last Tuesday (*not received*). I see no objection to a permissive marriage law for Marumakkathâyam people. Some say it is not necessary. A majority say so. Some amongst both educated and illiterate are in favour of the Bill. I pay Rs. 1,200 to Government. The number in favour of the Bill in my amsam will not be large. I would have $\frac{1}{3}$ of self-acquisitions go to wife and children in cases of intestacy, the $\frac{2}{3}$ to the tarawâd, not the tâvazhi. Even if there were only attâl-adakkakâr, I would let them have two-thirds. I would retain caste restrictions and the restrictions against marriage of North Malabar Nayar women with Nayars South of Kôrapuzha. Customary restrictions as to consanguinity and affinity should be retained. I object to registration of marriage before the Sub-Registrar. The present form of "puda muri" is quite sufficient. If registration is indispensable, I would suggest that it be performed in a temple or before a pramâni (chief man) of the dêsam. Polygamy is rare. I don't know of any instance in my amsam or in the neighbouring amsams. I would stop polygamy. The husband should be able when necessary on just ground to divorce the wife and marry again. I don't know of any instance of a man divorcing his wife in my locality. Adultery, cruelty towards the husband are the customary grounds of divorce by a husband. I don't think husbands are cruel to their wives: I have known instances of wives being cruel to husbands. If a wife chooses to divorce her husband, she simply deserts him. There is no formality that I know of. The husband must always communicate to the wife's Kâranavan the fact that he has divorced his wife. The husband should obtain his Kâranavan's consent before divorcing. So the wife should obtain *her* Kâranavan's consent before leaving her husband. The marriage tie ought not to be dissolved except on reasonable grounds. It must not be left to the courts to decide whether the grounds are reasonable. Five respectable castemen or Enangar should decide the point. The court might select the arbitrators and the decision should be according to the opinion of the majority. This would be acceptable to the people. I would not allow divorce for disagreement of temper. I would allow divorce by mutual agreement of the husband and wife with the consent of their Kâranavans. If what I have suggested were made law, the new law would be generally accepted with approval.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
28th MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 42.

KALLIYÂT CHÂTHU NAMBIYAR.

Kalliyât Amsam—20 miles East of Cannanore.—Age 45.

Am nephew of Kamâran Nambiyar, who is Kâranavan of the Tarawâd. He was too unwell to attend. I have read his answers to the interrogatories. I have no employment. I agree with my uncle that most people would be opposed to a marriage law, because it is opposed to long established custom. The present customary form of marriage is as good as a registered marriage. There is no one in my amsam who has more than an elementary knowledge of English, and but few such. The population is about 3,000, mostly Nayars.

I don't think it necessary that the children should receive any part of their father's self-acquisitions in case of intestacy. If a father dies without settling a gift on his children they should consider it their ill-luck. In such case if the wife and children were poor the husband's tarawâd would support them till their death in the tarawâd house of the husband. A respectable tarawâd would always support all the children of the male members, if the children required maintenance. Some fathers give about one fourth to their children; that is the highest fraction I have known of. Divorce is a sufficient check on adultery. The adulterer should not be punishable by the criminal law.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore. }
28TH MAY 1891 }

H. M. WINTERBOTHAM.

Collector and Commissioner.

Witness No. 43.

EDAVAN CHINDAN NAMBIYAR.

Age 56.—Adhigari of Ezhôm.—12 miles North of Cannanore.—Anandaravan in Tarawâd.

I have heard the interrogatories read by the Revenue Inspector. By the census of 1891 the population of Ezhôm is over 8,000. There are many castes. Nayars and Tiyans are almost equal. Very few have read English. With modifications I think a permissive marriage law would not be objectionable to a majority. The Registration provisions should be altered. The bride could not appear before the Sub-Registrar. I would suggest registration in a temple, or before a panchâyat, or before the amsam officials. Then I think no one would object much. The great objection to the Registrar is that he may not be of the Nayar caste. One-third of self-acquisitions should go to wife and children as a minimum. I think two-thirds should be reserved for tarawâd. All customary restrictions should be retained as to caste, consanguinity, affinity and crossing the Kôrapuzha. I object to having to go to court for a divorce. I would retain the present custom. There is no divorce now without sufficient grounds. The caste men should decide whether the grounds are reasonable. Their opinion is now always asked by respectable men. Adultery and incurable disease are the grounds justifying divorce by a husband. Quarrelling and disagreement are not proper grounds for divorce. If the caste men found it was the woman's fault, the husband would be allowed to divorce after getting consent of the woman's Kâranavan. Divorce is not common in my amsam. I know 4 or 5 cases of divorce in my amsam. There was a proper enquiry by a panchâyat, and as we found the woman to blame the husband was allowed to divorce. I have not met an instance of capricious divorce. Even if an anandaravan be an adult he ought not to marry without his Kâranavan's consent. The absence of the Kâranavan's consent would not make the marriage bad, but the wife could not be brought to the tarawâd house of the husband. Besides 'puda-muri' the only other form of marriage is 'Vidâram Kairal'. The ceremonies in the latter are incomplete and the woman

can't be brought to the husband's house. 'Tâlikettu must be performed before the girl reaches puberty. Polygamy is rare. There is no 'puda-muri' ceremony where the woman is of a lower division than the man. In such cases the woman is not termed 'bhârya'. There are instances of such cohabitation, but the practice is not frequent. In such case there is no formality. The man goes to the woman's house with a few friends and there is a feast there. The husband supplies the woman with oil and clothing, but no money. The woman is not looked down upon by her own caste people. In her tarawâd she and her children would be treated just like the sisters married by 'puda-muri' to a man of their own caste. I would stop polygamy. My tarawâd pays Rs. 300 to Government as assessment. I have nothing to complain of in the existing form of marriage. The legislation should retain all the present marriage rules. We Nayers of North Malabar do not consider our existing usages to be in any way disgraceful. It is only sons by 'Puda-muri' and 'Vidâram Kairal' who can perform their father's funeral ceremonies. If the woman is of a lower division than the man with whom she consorts, the man's tarawâd do not usually provide for the children after his death. If the father has left self-acquisitions and children by 'puda-muri' marriage unprovided for, the deceased's tarawâd will provide for them. There is no rule as to what share they should be given.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
28th MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 44.

T. V. ANANTAN NAYAR.

District Munsiff, Shernâd; Native place—Azhikôd Amsam, Chirakkal Taluk.

I have sent in my answers to the interrogatories. In my view "Vidâram Kairal" is not a marriage, because the wife does not get the full rights which a wife gets by "puda-muri." She can't even visit her husband's house, and does not attain the social status of "Ammal Sthânam." 'Vettillakettu' ceremony is the offering of betel leaves when the bride is taken to her husband's house. It takes place after "puda muri." This can't be performed in case of a woman who consorts with a man by 'Vidâram Kairal'. There is no "Dânam-Muhûrtham" to a Brahman in "Vidâram—Kairal." In Vidâram Kairal, the relatives are not invited to the feast by offering betel leaves. There is an intention in Vidâram Kairal to create the relation of husband and wife. It may be followed by "puda-muri" which would cure all defects. Consummation takes place at once in Vidâram Kairal if the girl has reached puberty. Vidâram Kairal is not considered to be concubinage. It is a defective form of marriage. It is largely resorted to especially by the poorer classes, to save the expense of the "puda muri." The children acquire no status in the father's Tarawâd. It is acquired if the mother is married by "puda muri." The husband will give the "Vidâram Kairal" wife oil, cloths, and "mêl-chilavu" (pocket-money.) The husband's Kâranavan will sometimes supply funds for the 'Vidâram Kairal' wife, not as a matter of obligation but as a matter of social usage. I can't say which is the more primitive form of marriage Puda-muri or Vidâram Kairal. I know of nothing which can be taken to indicate that "puda muri" is a newer form than the other, due to advancement in civilization. "Ūzham porukkuga" is not a form of marriage known in Chirakkal. It is used in Kadathanâd. Ūzham=in turn or by rotation—porukkuga=to live. The term would mean "to live in rotation." I don't think this points to a time when polyandry prevailed. In my opinion there is no foundation for believing that polyandry ever prevailed in Malabar. I can say positively that it is unknown in North Malabar. If a permissive Act is to be passed, I think Government should appoint a paid caste Registrar so that the bride may attend before him without scruple. There should be one for every

amsam or group of amsams. I think that people of North Malabar are averse to any change. Perhaps about 100 educated young men in North Malabar may be busying themselves to promote the proposed legislation. That is only a guess of mine. A majority of English educated men are in favour of recognizing the existing form of marriage as a legal marriage, if the law of succession is not interfered with. In lieu of 44 (d) I would make the maintenance of wife and children a charge upon the self-acquisitions, or I would give wife and children definitely one-fifth of such self-acquisitions. I should specify adultery, habitual disobedience tending to adultery, desertion for two years, loss of caste, incurable disease, cruelty such as to endanger health, as reasonable grounds on which a husband can divorce. The principle of reciprocity requires that the wife should be allowed to obtain a divorce if her husband commits adultery. I would establish a caste tribunal to adjudicate on cases of divorce. The existing courts might be invested with matrimonial jurisdiction in such a way that they should refer matrimonial disputes to a caste panchâyat. I object to family scandals being made public. Or caste tribunals might be appointed for specified areas. Or the parties might be asked to nominate arbitrators, and if they omit to do so, the court might appoint. The caste tribunals should be honorary. I think fit men could be found to serve without remuneration. I would altogether omit the section permitting a suit for restitution of conjugal rights. If it is inserted I would have the decree enforceable by attachment of property only and not by imprisonment. I would prohibit polygamy, except where it is allowed by Hindu law in ancient smritis, viz for barrenness and production of female issue only. I consider that a Nayar requires a son to perform his funeral obsequies. The sons now are doing this in practice although they are not heirs. The nephews are the persons bound by custom to perform such ceremonies. If a man has none but attâl-adakkam heirs, I would still restrict the share of widow and children to one-fifth. If a Nambudiri marries a Tamburâtti (princess) there is no "puda muri" ceremony in North Malabar. There is a feast at the Kovilagam, but of this I am uncertain. If a Nambudiri marries a Nayar lady (lower than a Tamburâtti) the ceremony of "puda muri" is celebrated. In the former case the union is regarded as a marriage, although there is no ceremony and the union is dissoluble at will. There is no doubt that the Tamburâtti can divorce the Nambudiri. I am not sure whether the converse holds good, as the Nambudiri receives a money allowance. Children of Nambudiri by a Nayar lady do not perform their father's funeral ceremonies. Malabar Brahmans and Pattars can contract a valid marriage with Sudra women. A Nayar can marry a woman of a lower division by "puda muri" ceremony. That has happened in my own family. The wife in such case has the same status as if she were of equal caste with her husband, except that she must not enter the kitchen or eat with the females of her husband's family. When North Malabar Nayars take a wife in South Malabar, the ceremony of "puda muri" is not gone through. When such a South Malabar woman comes to North Malabar, she would be received into her husband's tarawâd house, and would be treated as a lawful wife of a lower caste status. That is, she would not be able to enter the kitchen, or eat with the females of the husband's tarawâd. Where a North Malabar Nayar has married a woman in South Malabar, and introduces her to his tarawâd, the "Vettila-Kettu" ceremony would not be gone through with. Instances of a South Malabar woman being formally introduced into her husband's North Malabar tarawâd are very rare. In the case of an alliance between a Nambudiri and a Tamburâtti, there is no "puda muri," no "Vettilakettu," no "Dânam-Muhurtham," no wedding feast.

Ūzham may mean "a right or privilege" *Porukkuga* may be a corruption of "pârkkuga." If so "Ūzham pârkkuga" may be taken to mean "to wait for your privilege."

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Cannanore, }
29TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 45.

CHÛRIA KIZHAKKÊPURATH KUNYAPPA VAIDIAR.

Native of Tellicherry—8 years' living in Cannanore—Marumakkathâyam Tiyan.

I have received the interrogatories, but have not answered them as they were in English. Most of the Tiyan's residing North of Kôttakadavu (Mûrat river) are opposed to any change in existing custom. Some say they want a change but I don't believe they are sincere. I know about 50 men in Kurumbranad, and about 6 or 7 in Cannanore Cantonment, and none outside who desire the proposed legislation. I should be very glad to have a law giving legal force to our existing marriage called "Mangalam" or "Pen Vâzhcha," but it must be consistent with the custom of Marumakkathâyam. In case of intestacy the children should certainly get half the father's self-acquisitions. If a man had only attâl-adakkakar I would give half the tarawâd property to the children. Adultery, and a constantly bad disposition should be grounds enabling a man to divorce his wife. Chapricious divorce I have not known an instance of. When there is a dispute between husband and wife, the Kâranavan and a chief man on each side who were present at the marriage discuss the matter and if they agree there is a divorce, and the wife's horoscope, kept by the husband, is returned to her. This has created no difficulty hitherto and the same procedure should be continued. By custom now the father is guardian of his wife and children during his lifetime, and after his death the wife's Kâranavan is guardian. The half of a man's self-acquisitions which do not go to his wife and children should not go to the Tarawâd Kâranavan, but to his own tâvazhi. It is very necessary that we should be given testamentary power over self-acquisitions.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
29TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 46.

JOHN LEONARD ROZARIO.

Age 41.—Vakeel of the High Court practising in Malabar.—B.A. B.L.

Have been in practice 21 years. As far as the majority are concerned my information is that the people of North Malabar do not desire a marriage law. By marriage law I mean a law to regulate their marriage. The people in North Malabar most of them believe that they have already a legal marriage. In one case Mr. Reid, Sessions Judge, convicted a Mukkuvan (fisherman) of committing adultery with the wife of another Mukkuvan, all the parties being Marumakkathâyam. I know of no other instance in which the courts have recognized any rights or duties as attaching to the customary cohabitation of man and woman in Marumakkathâyam castes. The High Court have definitely held that the father is not the guardian. In theory the union is dissoluble at will. Until dissolution the union is considered as binding the woman to fidelity. Unfaithfulness on the part of the man would be perhaps readily excused, but the union would be regarded as binding both parties to conjugal fidelity except in instances of open, recognized polygamy. Polygamy is rare, and is looked upon as more or less disreputable. Whatever may be regarded as a justifying cause for polygamy is equally regarded as a justifiable ground of divorce. Divorce is very rarely heard of amongst Marumakkathâyam Hindus in North Malabar. The only grounds of divorce I know of are unfaithfulness and refusal of conjugal society on part of the wife. Incompatibility of temper is not regarded by Marumakkathâyam Hindus as a ground of divorce; nor is theft of the husbands'

property. I believe a great many or almost all the educated Marumakkathâyam Hindus would wish that their self-acquisitions should go to their wives and children. I can't say that a majority of the uneducated are in favour of this. All I have spoken to admit that the proposed change would be very small in as much as even now most of them settle their acquisitions on their wives and children by gift *inter vivos*. I have spoken to 20 or 25 uneducated men, who are persons of position. The majority leave no part of their acquisitions to the tarawâd. When they do so it is in the form of a gift to their own sisters, when they happen to be badly off. I know of two instances in which a man has failed to provide for his wife and children and in which his tarawâd has carried out his death-bed wishes and has provided for them. It is not my experience that most Marumakkathâyam Hindus reserve a share of their acquisitions for their tarawâd. I should say, that the only cases in which a man allows a part of his acquisitions to go to any one but his wife and children are those in which his own immediate female relatives are poor. I find a majority of the people in favour of their marriage being in some way legally recognized. Appearance before the Registrar is considered an objectionable provision. I would, if it be necessary, declare the present form of marriage to be legal. I don't think in the case of the poorer classes, there is any real difficulty in the way of the woman appearing before the Sub Registrar. Where necessary the Registrar might attend at the marriage where the parties chose to pay the prescribed fee. I don't think that interference with the present freedom of divorce would be acceptable, but nevertheless instances of divorce in North Malabar are very rare. I have not heard of any instance in which a Kâranavan has succeeded in making an Anandaravan put away his wife. I have known one instance of an unsuccessful attempt to do so. I have met with no instance in which an elderly wife has been divorced in favour of a younger rival. I have met with instances where an elderly wife has been supplanted by a polygamous match. I question the expediency of attempting to regulate divorce by a permissive Act. If legislation be necessary I would make it compulsory. I don't think the suggestion to invest panchâyats with matrimonial jurisdiction is a practicable one. I would not attempt to deprive the courts of matrimonial jurisdiction. I have found that resort to arbitration in Malabar invariably necessitates a second trial. I don't think the time has arrived for doing away with existing caste restrictions on marriage. I would retain existing customary restrictions as to consanguinity and affinity. I am in favour of conferring testamentary power over self-acquisitions. I would retain the proposed restriction on that power in favour of wife and children as in Section 44 (e) in the Bill. A majority of the educated natives are not in favour of the Bill in all its details. They object to the assumption that the present form of marriage is not legal, and as to the necessity for providing a statutory form. There is no educated opposition as far as I know to other details, but most would object to any interference with present custom of marriage and divorce, and only desire to see self-acquisitions go to wife and children. They would also be in favour of the father being constituted guardian. A very small minority of the educated are Kâranavans. Even now I know hardly any instance of a Kâranavan educating a junior member. It is almost always the father who educates. The contemplated change in succession would in no way check education in my opinion. I should think it very probable that the proposed marriage law would introduce invidious distinctions between sisters married under the Act and those who are not. I have discussed the proposed legislation with persons from all parts of North Malabar. There is a growing tendency among the educated to get the Marumakkathâyam law changed in its entirety. I should say that about 15 per cent of the whole population might be considered as educated. That is merely a guess. Perhaps it would be safer to say between 5 and 10 per cent. The Kâranavan's desire to benefit his wife and children has been one of the main grounds of litigation between Kâranavans and their tarawâd. The present Marumakkathâyam usage is the cause of a great deal of litigation and the people are certainly not content with it as it is now administered. A woman's separate property now goes to the Kâranavan, whereas under the old custom it ought to go to her children. Also in my opinion the Kâranavan's position is an unworkable one unless his hands are strengthened more than they are at present. The Payyanûr Nambudiris who follow Marumakkathâyam law in its entirety, have a regular form of marriage exactly like other Brahmans. They adopt, from

the other Nambudiris, male members into one of the extinct illams so that marriage may be possible. There are now only three Marumakkathâyam Nambudiri Illams in which there are female members.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
1st June 1891.

H. M. WINTERBOTHAM.

Collector and Commissioner.

Witness No. 47.

TIRUMANGATHA KRISHNA KURUP.

Age 61.—Azhiyûr Amsam—Kurumbranad.—Tarawâd Kâranavan.

Am a Nayar Janmi. I don't think it is proper to pass a permissive marriage law. That I find to be the feeling of the people. I never heard of any one wanting a marriage law, before this enquiry was set on foot. There is no custom of giving self-acquisitions except to the tarawâd. Some little might be given according to pleasure to wife and children. Disagreement of temper is the customary ground of divorce, and that is the usage. My tarawâd pays about Rs. 1000 assessment. "Ûzham-Porukkuga" is a known form of marriage in my part. It is just the same as "Vîdâram Kairal". There is no gift of cloth or of money. The woman is not brought into her husband's house. "Pudamuri" is the ordinary approved form of marriage. The other kind is not very common. It prevails amongst all classes of Nayars. As to the Tiyaṅs I am not sure. The Nambudiris marry Sudra females in the "Ûzham porukkuga" form, not by "pudamuri". When a Nayar marries a Nayar woman of a lower Sub-division it is never done in the "pudamuri" form but by "Ûzham porukkuga". The cases are rare in which husband and wife are not of equal caste. The Nambudiris are the persons who furnish bridegrooms to our Nâdu-vâzhi (chieftain) families.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
1st June 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 48.

ERANJËRI DAMODARAN NAMBU DIRI.

*Kurumbranad Taluk—Kartigapalli amsam—Age 57—Makkathâyam Brahman.
A Janmi paying Rs. 500 assessment.*

None of the people in my part desire a permissive marriage law. I have spoken to about 500 people and all of them object to have existing customs interfered with. They were all quite unanimous. The Tâlikettu was instituted by Parasu Râma, an incarnation of the deity. I can't tell what its meaning is. Amongst the Nambudiris also the ceremony should take place before puberty. Circumstances have forced us to postpone it. Amongst the Nambudiris the tâlikettu ceremony lasts four days. During these four days the "pâni-grahanam", the seven steps, "Vivâha-hôman," "Asmârôhanam" are performed. Tâlikettu and the rest are all part and parcel of one continuing ceremony. This may be deferred, amongst Nambudiris, until the woman finds a suitable husband. Amongst the Sudras it is the practice to have tâlikettu before the girl reaches puberty. That is all I can say. Amongst Nambudiris the father, or if there is no father, the brother ties the tâli. The bridegroom does not interfere in it. Tâlikettu in the woman may be analogous to Samâvarthanam in the

man. When a Nambudiri consorts with a Sudra woman it is not by "Pudamuri". There is no ceremony necessary. Local customs may differ here and there. "Ūzham porukkuga" is a form of marriage resorted to save the expense of a 'pudamuri' wedding and with the intention of performing "pudamuri" in 5 or 6 months. When a Nambudiri consorts with a Sudra woman the union is generally for life. The Nambudiri does not generally divorce. He calls the woman his "Bhârya" (wife) She does not address him as "Bhartâvu" (husband) He is called Sambandhakâran. The children will not call their Nambudiri sire "father". The wife would refer to the Nambudiri as her "Bhartâvu" (husband). It is not the custom for a Nambudiri to bring his Sudra wife to his house. If she is poor the Nambudiri supplies her with oil and cloths. If the woman's family is rich they would not accept anything from him, because his property is regarded as "Brahmaswam". The Nâduvâzhis and Kovilagams regularly pay the Nambudiris who consort with their females. There are about 10 Nambudiri Illams in Kadathanad; about 60 or 70 families of Nambudiris in the whole of Kurambra-nâd Taluk. There is no objection to a Nambudiri female remaining unmarried till her death. There is no objection now to the younger males in a Nambudiri family all marrying, each a Nambudiri wife. The old rule was that only the eldest Nambudiri son could marry. Even if a Nambudiri who has a Nayar wife, becomes the eldest male, he does not marry a Nambudiri wife, unless his deceased elder brothers have left no legitimate children.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry }
1st June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 49.

MANIKKÔTH KANNAN NAMBIAR.

(Tenders himself for examination).

Age 25—Azhikôd Amsam—Chirakkal—B. A. studying for B. L.

I have sent in my answers to the interrogatories. Some old people, two respectable old Nayars, have told me that our system of inheritance is based on religion and that any one who followed the proposed law would be excommunicated. Some cannot perform father's funeral oblations unless the nephews authorize them to do so, by presenting them with a knife and lamp at the burning place. If the nephews withheld this authority I can't say how the sons would act. In a Malayalam translation of the Bhâratham, I have found a text saying that amongst Sudras the nephews should perform funeral oblations. There is no interdiction upon the sons' doing so. It is an immemorial custom for the sons to perform the fathers' funeral oblations in North Malabar. But few out of the few educated men in North Malabar are in favour of the Bill. In Madras at a meeting attended by 26 Malayâlis, 16 were in favour of the proposed legislation. If the existing custom of marriage is legalized, if the proposals as to Registration be duly modified and if succession is not interfered with, then I should have no objection to a permissive marriage law. I would not insist on freedom of divorce. I am in favour of polygamy. I would have neither Kâranavan nor father to be guardian. I think the mother should be guardian till her daughter is married or until her son is 16 or 18. I would grant freedom of testamentary disposition over self-acquisitions. I would limit the power to two-thirds—one-third should go to tarawâd.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
1st JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 50.

ARATHIL KANDOTH KANNAN NAMBIYAR.

Age 42—District Munsiff of Badagara—Native place Tellicherry.

I have not yet sent in my answers to the Interrogatories. I have already written about 60 pages and will send in my completed essay in about a week. I have fully described the marriage customs of South and North Malabar. I have about ten years' experience of South Malabar. Among Nayars in North Malabar the approved form of marriage is called "Puda-muri". There are besides (2) *Vîdâram-Kairuga*, (3) *Ūzham-porukkaga*, (4) among weavers "Pani Kondu Variga" (5) among Tiyans "Mangalam." Puda-muri entails the most expense: but it is not more expensive than *Tâlikettu*. The *Tâlikettu* in a middle class family would cost from Rs. 100 to Rs. 300. "Puda-muri" would cost from about Rs. 50 to Rs. 200. The caste called Paravar' (stone masons) below Tiyans, call their marriage 'Puda-muri.' 'Uzham porukkuga' and 'Vîdâram Kairuga' are two names for the same form of marriage. The ceremony is the same in both. The forms are applicable to all Nayars. 'Puda-muri' will follow when the wife becomes pregnant, or before. Until 'puda-muri' is performed the wife cannot be brought to the husband's house. Until then the husband gives cloths, oil and money for personal expenses. 'Mangalam' is the only form of marriage practised by Tiyans. In South Malabar the forms of marriage in use are 'Sambandham' and in Palghat 'Kidakkora Kalyânam.' This word, I think means 'Sleeping chamber.' Wives live invariably in their husbands' houses in North Malabar. In South Malabar the wives live in their own tarawâds except the husband be a Nambudiri of position, a Rajah, a Vakeel, or a Government official in which cases the wife lives with the husband. Occasionally the Kâranavan brings his wife to his house for a visit. She stays only a short time. Junior members never bring their wives into their tarawâd, house. As regards maintenance, the husband supplies cloths, oil and money for personal expenses, but not food unless when the wife lives with the husband. In North Malabar the wives of Anandaravans living with their husbands are fed by their husbands' tarawâd. In my opinion most Marumakkathâyam Malayâlis are in favour of their marriage being legalized, and of provision being made for wife and children. They don't like the Bill in its present form. They would wish the father to be the guardian. They wish to be given testamentary power over self-acquisitions. I would restrict the power of testamentary disposition to one half of self-acquisitions. The other half should in all cases go to wife and children. I am strongly of opinion that in case of intestacy the whole should go to wife and children. Where a man has no heirs, but attâl-adakkakârs the property should go to wife and children. According to custom it is the *Tâvazhi* that ought to succeed to self-acquisitions. The law as administered makes the tarawâd the heir. That rests on a recent decision of the High Court (Vol. II Madras High Court Reports.) The right of succession under Marumakkathâyam is not based on the funeral oblation made by the Anandaravan. There is no social obligation to perform funeral oblations. No one would be put out of caste for neglecting the duty. Some do neglect it. I know of very many instances in which funeral ceremonies are left unperformed. Some member or other of the tarawâd must perform them. If the whole tarawâd neglects the duty it would be excommunicated. Very few tarawâds perform the annual Shrâdham for deceased relatives. All Anandaravans observe pollution for 14 or 15 days on the death of a member of the tarawâd. It is not a fact that the Marumakkathâyam law of succession has a religious basis. Neither 'puda-muri' nor any of the other forms of marriage has any religious element in it. *Tâlikettu* is not now a marriage as practised. In some Kovilagams it was, I think, originally the real marriage but now according to my knowledge the *tâlikettu* nowhere amounts to marriage. I don't know what is the practice in all the Kovilagams. I would retain all customary caste restrictions on marriage and all restrictions as to affinity and consanguinity. The 'Kôra puzha' restriction is gradually disappearing. I would not retain it. I object to the provisions as to registration because they are distasteful to the people. If registration could be effected without appearance before the Registrar there would be no objection. Men and women would alike object as a shock to their modesty. It would be repugnant to men as well as to women.

I would suggest that a respectable Nayar or Nambudiri should be appointed Registrar for each Dêsam or Amsam. He might be remunerated by a small marriage fee. They might keep a marriage register and should attend at the place and time of marriage. I would suggest a fee of Rs. 2. He should forward copy of the register to the nearest Registrar for formal registration. In theory and practice, divorce is now permissible at will of either party. It is not restricted to reasonable grounds. There have been many cases of arbitrary divorce in North Malabar but not so many as in South Malabar. Cases of arbitrary divorce are not uncommon. I would allow one year's desertion to be a sufficient ground of divorce. I am against a divorce through the courts. The party desiring a divorce should have to give a year's notice in writing to the opposite party (husband or wife). It should be countersigned by two relatives, and served upon the husband or wife who is to be divorced. A copy should be sent to the Sub-Registrar to be stuck up in his office for one year. At the expiration of one year both parties should be free to remarry without further impediment. All the people I have spoken to would like such a procedure as this. Amongst Marumakkathâyam Hindus, some divisions both high and low do not observe the 'puda-muri' ceremony. That is they present no clothes. Amongst the Marumakkathâyam Châliar (weavers) the bridegroom does not go to the bride's house, but deputed friends to pay the bridal-gift of money and to fetch her. There is no ceremony except the payment of money. Where there is a feud between two tarawâds, it not uncommonly leads to a divorce. The Kâranavans would compel the Anandâravans to divorce their wives. It is also becoming a custom that when a tarawâd accepts a wife for a member, the other tarawâd should take a girl in exchange for one of its males. Shrâdham is essentially a religious ceremony.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
2nd June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 51.

MANÔTHA PAIDAL ADIYODI.

Maniyur Amsam, Kurumbranad, Age 62—Tarawâd—Kâranavan,

Pay Rs. 1200 assessment. I have heard Kannan Nambiyar's evidence. It is now the custom for the Marumakkathâyam people to give part of a man's self-acquisitions to his wife and children. I would give them one-third. Although the father is the *de facto* guardian, I would uphold the Kâranavan's superior authority over the father. The marriage should not be registered. The majority of the people are totally against any interference with existing customs, and want to be let alone.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
2nd June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 52.

KÊLÔTH KOVILAGATHA RAMA VARMA SHANGARA ADIYODI.

Age 49—Vellur Amsam, Kurumbranad—Tarawâd—Kâranavan.

Tarawâd estates pay over Rs. 280; mostly in name of tenants. I am against any change in existing custom, and am therefore opposed to any legislation to regulate marriage.

I have not asked any body's opinion. If this new law is enacted the Marumakkathâyam tarawâds will be destroyed. It is by lapsing of self-acquired property to tarawâds, that the tarawâds are recruited. I would accord power of testamentary disposition over self-acquisitions. The father is now the *de facto* guardian while the children live with him. The tendency of Anandaravans now is to do nothing for the tarawâd, and it is only by the lapsing of self-acquisitions to the tarawâd that the tarawâd can be kept alive. If self-acquisitions are to go to the children, there is an end of Marumakkathâyam.

Taken down by me in the presence of the Commisison ; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
2nd June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 53.

KURANGÔTTA VANMÊRI KOMAPPAN NAMBIYAR.

Age 60.—Kunnumal Amsam, Kurumbranad.

People are dead against registration of marriage. In cases of intestacy I think wife and children should get one-half or one-third of the father's self-acquisitions. Most people would be opposed to any interference with custom. Father should be guardian during his life. That is the practice now. Divorce should be left as it is, marriage being dissoluble at will. There should be no change in caste usage. I pay Rs. 700 assessment.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
2ND JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 54.

PALLIYIL EDATHIL KUNGAN NAMBIYAR.

Palayâd amsam, Kurumbranad.—Anandaravan in Tarawad.—Tarawâd pays Rs. 1000 odd.

If it is not compulsory I should have no objection to a permissive marriage law. I am strongly in favour of it. In case of intestacy half of father's self-acquisition should go to wife and children and half to his own *Tâvazhi*. I think the father should be the guardian of his children.

The provisions as to registration are very objectionable. The attendance of bride and bride-groom before the Registrar must be dispensed with, and the affair managed through the elder brother or Kâranavan. All caste and other customary restrictions should be retained. North Malabar women should be allowed to go to South Malabar in company with their husbands. I live 8 miles North of Kôrapuzha.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
2ND JUNE 1891, }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 55.

KOZHISSËRI ERËSHA MENON.

Age 46.—Neduva amsam.—Ernad Taluk.—2nd Grade Pleader, Shernâd Munsiff's Court.

I have submitted my replies to the interrogatories. In my opinion there is now a binding form of marriage, and no legislation is desirable to make the marriage recognized by law. In South Malabar the wife generally lives with her husband either in his separate house or in his tarawâd house. The children live with the father and he maintains wife and children while they live with him. Fathers give self-acquired property to wife and children: a share according to his pleasure. I don't know an instance of a father giving the whole of his self-acquisitions to wife and children. A half is the most that is given. The other half lapses to the Tarawâd on his death. That I think is right and should continue. It ought not to go to the *tâvazhi*. I am in favour of granting the power of testamentary disposition of self-acquisitions. In case of intestacy I would let the whole property go to the tarawâd, giving nothing to widow and children. The relation of husband and wife created by *tâlikettu* is always dissolved on the 4th day by the Manavâlan cutting in two the cloth on which the damsel and the bride-groom sit. They always sit side by side on a plank. The cloth is an "Ena-puda" (double-cloth). I don't think the Manavâlan need say anything. The Manavâlan takes one half of the cloth, and the bride's tarawâd takes the other. I think the *tâlikettu* is a marriage dissolved as above on the fourth day. It is invariably performed before the girl attains puberty. I don't know of any instance in which the man who ties the *tâli* has actually cohabited with the girl, without the subsequent formalities of Sambandham. 'Sambandham' is the only form of marriage of which I have any knowledge. In South Malabar there is no gift of cloth. There is no religious element in Sambandham. As to usage I can only speak as to my amsam and the surrounding amsams. Polygamy is rare. I can only think of one instance. It is very rare. I don't know whether there was any special ground in that one case. I don't think the people would approve of the abolition of polygamy. I speak only for the males. Possibly the women might approve. I have been practising as Vakeel for 20 years. The objection to the proposed legislation is that it will interfere with Marumakkathâyam custom, and will create two diverse systems of inheritance in the same family. It will prevent self-acquisitions lapsing to tarawâd. I am opposed to any sort of change in old custom. I am entirely opposed to registration of marriage as unnecessary. I think adultery, enticing away a married woman, and bigamy by a wife ought to be punished criminally, and that this would be for the good of the people. I have no objection to legislation so far. I don't think the people would mind the father being guardian of the person of his wife and children, if the guardianship did not extend to their claims as members of their tarawâd. When Nambudiris and Brahmans consort with our women, the union is as binding as if the husband is a Nayar. I have discussed this marriage Bill with many persons. Most of them object to it. I have never heard any one express a desire that our "Sambandham" should be legalized. In my answers I am only expressing my own individual opinion. I don't know how the law stands at present as to the liability to punishment of an adulterer with a Nayar "wife".

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
5TH JUNE 1891.

}

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 56.

PUDHÊRI VELAYUDHAN NAYAR.

Age 36.—Nallûr amsam, Ernad Taluk—Tarawad Kâranavan.—Janmi paying Rs 2000 assessment.

I object to the permissive marriage law, because it will ruin the tarawâd. The junior members will do what they like. They generally don't care for the tarawâd. I have spoken to many persons regarding the Bill. The Brahmans and Tiyaṇs who follow Makkathâyaṁ say it is a good Bill. The new English-educated young men like the Bill. Such of them as are Kâranavans don't like it. I think a majority of even the educated are opposed to it. My house is close to the Feroḱ Railway Station and I come into contact with many persons from different parts of Malabar. I have about 1000 families of tenants. So far as I have ascertained, they are against the Bill. I think testamentary power over self-acquisitions should be granted. I would not give the wife a right of maintenance against her husband. I don't object to the father being constituted guardian of the persons of his wife and children. So far as their tarawâd claims are concerned, the Kâranavan should be their guardian. Seven-eighths of the Anandaravans will give their earnings to their wives and children, and thus tarawâds will be ruined if the proposed Act is passed. My opinion is that if the proposed Act is passed, a majority of Anandaravans will follow it and the tarawâd system will be ruined. I think both educated and uneducated Anandaravans will marry under the Act. I can't say that there are many instances of dissensions owing to Kâranavans giving tarawâd property to their wives and children. I can't say that people have suffered any special inconvenience from the existing usage as to marriage. I have read the whole Bill. I have submitted my answers to the interrogatories.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
4TH JUNE 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 57.

ERAMBAPPALLI KUNJUNNI NAYAR.

Age 49.—Cheruvannûr amsam, Calicut.

Am Kâranavan by Court decree. Am a janmi paying Rs. 500 assessment. I have submitted my answers to the interrogatories. In my opinion there ought to be passed a permissive Act to regulate marriage. In case of intestacy half the self-acquisitions should go to wife and children and half to *tâvazhi*. If the mother is alive she ought to get one-third and the remaining two-thirds should be equally divided half to her descendants and half to deceased's wife and children. Polygamy should be allowed where wife is barren, lunatic, or subject to incurable disease. Divorce should be allowed for adultery, habitual disobedience, neglect of conjugal duty, loss of caste, lunacy. Now capricious divorce is in practice as well. I would retain customary restrictions as to caste, consanguinity and affinity. I am the last survivor of my tarawâd. After my death my property will go to the dismissed Kâranavan, or to my attâl-adakkakâr. I have discussed the subject with many people. The majority of the intelligent people desire legislation with the modifications suggested in my answers. I have enquired of men from many parts their opinion. Well-informed men are in favour of the marriage legislation. I would not preclude divorce except by resort to court,

The caste men should settle whether there is just ground for divorce in each case. If they find no just ground the divorce should not be allowed.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
4TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 58.

EDAVALATH KAKKÂT KRISHNAN.

*Marumakkathâyam Tiyan.—Kottayam amsam, Kottayam Taluk—Subordinate Judge
of South Malabar—Age 49.*

I have submitted my answers to the interrogatories. I have said in my answers that the proposed legislation will cause the destruction of tarawâds because there will no longer be self-acquisitions to recruit them. The loss will not be compensated by the gain that female members will obtain from their husbands, because such gain will only accrue to the tâvazhi of which each wife is the head. I am afraid the majority of the people are not in favour of the Bill. That in my opinion is true both of Nayars and Marumakkathâyam Tiyan. The educated portion of the community feel greatly the want of some law such as proposed. By educated I do not mean only such as are educated in English. The educated are in favour of the main provisions of the Bill, and of its principles. I would limit myself by saying that a section of the educated favour the Bill. I believe the fraction of persons in favour of the Bill in the whole of Malabar would be one half of the intelligent people. I should say 75% of the Marumakkathâyam Hindus are against the Bill and 25% in favour of its main principles. I am against registration as proposed in the Bill. I have explained in my answers the procedure I would adopt. I would give either husband, wife or wife's guardian the power to compel the attendance of the opposite party before the Registrar to register the declaration. My personal opinion is that the whole of the husband's self-acquisition should go to his widow and children. As a matter of expediency to satisfy conservative views, I should not object to a division being made so that the tarawâd should get half and the wife and children half. Most fathers do reserve part of their self-acquisitions for their tarawâd. I think the share is voluntarily reserved from a sense of duty to the tarawâd; not because a man is afraid to strip himself of all his property before his death. I would not retain the restriction on intermarriage between different divisions of Nayars. If caste restriction was ignored it is not unlikely that persons who so married under the Act would be excommunicated. I would accord full liberty of testamentary disposition over self-acquisitions without restriction. In North Malabar if a wife has separate property it is her husband, not her Kâranavan who looks after it. I believe the same holds good in South Malabar. I am in favour of the father being guardian of his children. I would allow the husband's right of guardianship to extend to his wife's property, she of course maintaining her exclusive right to it. I would reserve in the Kâranavan a right to interfere with the father's guardianship, when so doing was for the interest of the wife and children. On mature consideration, I think matrimonial jurisdiction, must vest in the court, but I would invest the court with power to refer cases to arbitrators, or a caste panchâyat irrespective of the wish of parties. I approve on the whole of the English law of divorce; but I doubt if this would be acceptable to the majority of the educated who desire legislation. They would desire to retain the freedom of divorce. Cases of divorce are not very numerous. In North Malabar divorce is not at all common. It is more common in South Malabar. I do not think polygamy is common. I would abolish it as far as regards marriages under the Act. I know of no instance of polyandry in South Malabar. 'Sambandham' is the only form of marriage known in South Malabar as far as I know. In South Malabar the wife of the Kâranavan lives with

him. I can't say whether in South Malabar the wife generally remains in her tarawâd house. There are very many cases where the wife lives with the husband. This is generally so where the husbands have an income and can support their wives. I can't say what is the rule and what is the exception. I think there has been a great dissatisfaction among the respectable minority regarding the existing usages regulating the connexion of the sexes, even before the Bill was agitated. There is a strong desire and conviction on the part of the people that their self-acquisitions should go to their *tâvazhi*, and not to the Tarawâd Kâranavan. I believe the people have been disposing as far as possible of their self-acquisitions by gift *inter vivos* to their own *tâvazhi*, so as to leave none to the Tarawâd Kâranavan. If the general feeling of the people were respected, the law would pass self-acquisitions to the *tâvazhi* and this would destroy the existing tarawâds as effectually as if the whole self-acquisitions passed to wife and children, but would not interfere with the Marumakkathâyam law of succession. I think there is no ground to anticipate that the Bill would retard the progress of education. I would make no special provision for the mother. I should say that 90 % of the respectable Marumakkathâyam Tiyaṇs have adopted their fathers' house names. When a man becomes Kâranavan of his tarawâd, he resumes his tarawâd name by tacking it on to his father's house name. I think the caste rules as to marriage are more closely observed in North Malabar than in South Malabar.

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
4TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 59.

PANIKKÔT KARUNAGARA MENON

Age 49—Tiruvâli amsam—Ernad Taluk—Deputy Collector on special Duty.

I have submitted my answers to the Interrogatories. I believe the educated and enlightened portion of the Marumakkathâyam Malayâlis, with few exceptions, desire a permissive marriage law. All of them do not approve of the Bill as it is. Rather than have no reform, several of us would take the Bill as it stands. Perhaps about 10 % of the educated in South Malabar would sooner take the Bill as it stands than have no reform. I should say between 20 and 25 per cent of the adult population men and women are enlightened in the sense I use the word. Several of the Nayar ladies whom I have spoken to understand the main features of the Bill and are in favour of it. I would leave all caste restrictions on marriage to be regulated by public opinion and not by the Bill. In my opinion there is no part of the so-called marriage in North or South Malabar which has any religious element in it. I have attended many "puda-muris" in North Malabar. I know two instances in which Nayar men of South Malabar have married Nayar ladies in North Malabar, without any social penalty. I know of one instance in which a Nayar lady of North Malabar has come to South Malabar with her husband without any caste difficulties being raised. I would make disobedience to a decree directing restoration of conjugal rights, a ground of divorce. I should say the *tâli-kettu* is a religious ceremony. I have no view as to its origin.

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
4TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 60.

PERUMPIĻĀVIL GOVINDA MENON.

F. A. District Munsiff of Betatnad—Age 43—Mûthedatha Mâdamba amsam, Walluvanad.

I have submitted my answers to the Interrogatories. I am in favour of a permissive marriage law. There is a good deal of opposition to it. The people in general do not desire it. Of the educated class, I think, 75 per cent desire it. I do not mean only such as have studied English. I took part in a petition signed by about 600 people at and near Tirur asking for a legal form of marriage. There is difference of opinion regarding details, but the main principles of the Bill are approved. The appearance before the Registrar is objected to. They are averse to resorting to court for dissolution of marriage. I think polygamy is generally deprecated. I would retain caste restrictions. I should think public opinion quite strong enough to maintain caste restrictions but the people would sooner see caste restrictions expressly recognized. I am quite certain that there is no valid objection to marrying into one's deceased wife's Tarawâd. I know a case of marriage with a deceased wife's sister. I would certainly prohibit polygamy. I can't say that a majority of the educated would share this opinion. If they knew that they could not get an Act sanctioning polygamy they would sooner have Section 40 (1) of the Bill as it stands than have no reform. I think polyandry is nowhere recognized at present in Malabar. If there ever was such a custom it is now obsolete. The present tendency, during the last ten or fifteen years, is for the wife in South Malabar to live with the husband in his house. About 50 per cent would live with their husbands, the others would remain in their tarawâds.

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Calicut,
4TH JUNE 1891

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 61.

MAKKĀTTA VASUDEVAN NAMBU DIRI.

Age 35.—Koduvalli Amsam, Calicut Taluk—Janmi paying over Rs. 1000 Assessment.

I have submitted my answers to the Interrogatories. I and those I have spoken to would deprecate any change in existing custom as to marriage; but if the Act is permissive there seems no objection. That is the opinion of most people I have discussed the matter with. In cases of intestacy I think the wife and children should take one-third of the self-acquisitions and the tarawâd should take two-thirds. In Calicut Taluk about 50 percent of the Nayar wives live with their husbands. I think the right of guardianship should remain with the Kâranavan. The people desire to have the power of will over self-acquisitions. Customary caste and other restrictions should be retained. There is no difference in the formality of Sambandham whether the man be a Nambudiri or a Nayar. Divorce should remain unrestricted as at present. I am the eldest male in my family. There is no objection to the younger members of a Nambudiri Illam each marrying a Nambudiri wife. The rule is that only the eldest brother should marry. In South Malabar when a Nambudiri consorts with a Nayar woman, he calls her *Bhârya* (wife) and she calls him *Bhartâva*. He would admit that he was the woman's *Bhartâva*. The children would call him "father" till they grow up, and then they would cease to do so. The Nayar 'wife' will often dwell in the Nambudiri's Illam with him. When a Nambudiri consorts with a lady in a Kovilagam or Nâdu-Vâzhi family, there is no invitation of friends and relatives, no feasting, no presenting of betel or any other formality. There is no objection to a Nambudiri who has a Nambudiri

wife, consorting with a Nayar woman. In such cases the Nayar woman would never be brought to the Illam. Openly the Nambudiri would not call this Nayar woman his bhârya (wife).

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
4TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 62.

TALAKODIMATAM KOCHU KUNYAN NEDUNGÂDI.

Age 54.—Nayar, Valayanâd amsam, Calicut Taluk.—Janmi paying over Rs. 1000 Kâranavan of the Tarawâd.

Have sent in my answers to the interrogatories. I object to legislation in the form proposed by the Bill. Most of the people I have spoken to are of the opinion expressed in my answer. They would wish that something less than one-half of a man's self-acquisitions should go to his wife and children. Amongst the Nedungâdis the form of 'Sambandham' is the same as with other Nayars. When Tamburâns and Nâdu-Vâzhis form Sambandham with a Nayar woman, there is no formality of any sort. In South Malabar, most of the Nayar women remain in their own Tarawâd house after marriage. If their husbands have means and live at a distance they live with their husbands. I have houses in Walluvanad as well as in Calicut and what I have said applies to both Taluks. I have not heard any instance of polyandry.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
4TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 63.

CHERUKÂTTA RAMAN KARUNAGARA MENON.

Age 56—Paniangara Amsam, Calicut. Residing now in Madura.—Vakeel of the High Court.—Janmi paying between Rs. 300 and 400—Educated in Travancore and Madras.

I have seen Mr. Sankaran Nayar's Bill, and have read it carefully. I see no objection for passing a permissive marriage law for Marumakkathâyam Hindus. I don't approve of all the details of the Bill. First, I object to imitating the Brahmos and Parsis. I would advocate adopting the marriage law of ordinary Hindus as far as it can be made applicable. I would retain polygamy as an excusable institution. I would only bind the wife to fidelity as long as the marriage tie exists. I would retain freedom of divorce on justifiable grounds. The courts should alone decide what grounds are justifiable. The legislature should not decide what are justifiable grounds. That is a question of equity to be decided by the courts. I would make the father the guardian of the sons and the mother the guardian of the daughters. The Kâranavan should have nothing to do with it. I would accord unlimited power to dispose of self-acquisitions by will, subject to any restrictions now recognized by ordinary Hindu law. In cases of intestacy, I would reserve one-third or one-fourth for the Tarawâd and give the rest to the wife and children. I have only stated my individual opinion. I object to borrow even reasonable

improvements from the Brahmo or Parsi Acts because Brahmos and Parsis are not Hindus and belong to another nation. As regards the Marumakkathâyam people, they do not understand anything about it. Some desire marriage, some do not desire it. The old people are against change being highly conservative. The younger people say under 50, both males and females are what I should call the new class. About 50 per cent of the new class would be in favour of marriage legislation. I have spoken to several persons from different parts and that is the opinion I have formed. When the subject is explained to Janmis in the interior and when they understand that the new law is only to be permissive, I find that they do not object. As to the official and educated classes they are as a body in favour of legislation. I should suppose this would be about 10 per cent of the population. The educated portion of the Nayar ladies are in favour of the proposed legislation. I have spoken to a few on the subject. I would retain all caste restrictions on marriage. The Bill is chiefly obnoxious on account of a tendency to ignore them. I do not regard the Kôrapuzha as a caste restriction. It was a state restriction. Whenever the husband has the means to support his wife, she as a rule lives with her husband, in the husband's Tarawâd. I think a majority of Nayar wives in South Malabar live with their husbands. This has been the case for a hundred years at least and the practice is the same in both North and South Malabar. The common practice is for husbands in South Malabar, who have the means, to give property to their wives and children *inter vivos*. The Kudiravattatha Nayar, a great Janmi in South Malabar, owes his estate to a gift by his father a former Zamorin. The ancient kingdoms of Kadathanâd and Nilëswarem were kingdoms established by a gift of the Chirakkal Rajah to his sons. In my opinion there is a Marumakkathâyam marriage existing according to social usage but I think a declaratory Act to remove the doubts cast on its validity is necessary. I think it is the Marumakkathâyam system of inheritance which has made the marriage very loose. The Marumakkathâyam Nambudiris and the Kshatriya Rajahs (Cochin, Parappanad, Kottayam, Beypore, Kodungallûr) have all a regular marriage attended with the uttering of Vedic texts. Nevertheless they are Marumakkathâyam. The Marumakkathâyam Mappilas afford another example, for the validity of their marriage has never been questioned. The whole aristocracy follow Marumakkathâyam. The people will dislike registration. The husband and wife wishing to marry under the Act, should draw up a written declaration to that effect at the time and place of marriage and get it attested by witnesses. Registration of the declaration would involve official interference and is therefore objectionable. In case of dispute the genuineness of the declaration should be decided by the court. The declaration might be registered at option of either party. Divorce is not very common, but it is permitted at pleasure of either party. I can't see any way of restricting the right of divorce upon anything but the pleasure of either party. The Bill proposes to enact the Christian law of divorce to which I object as making divorce practically unattainable. Respectable Marumakkathâyam Society would recognize adultery and cruelty as the only reasonable grounds of divorce. I would leave arbitrary divorce to be checked by Social opinion. 'Sambandham' is the only Marumakkathâyam form of marriage except among the Kshatriya Kovilagams. Tâli-kettu is not a marriage. It gives the girl only a marriageable status. I don't consider it to be religious. The Tâli is brought from the temple and tied and over it a second tâli is tied and the first tâli is then taken back to the temple. The Sambandham has no religious element in it. I regard it as a contract.

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
5TH JUNE 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 64.

PERIMBRAYUR AMBALATHODIYIL KRISHNA MENON.

1st Grade Pleader, Calicut—F. A.—Perumudiyur Amsam, Walluvanad—Age 36.—Have been practising for 10 years.

I have submitted my answers to the interrogatories. I would accept the Bill as it is if the Government will not grant any other form of legislation. I object to the provisions regarding registration, divorce through the medium of the courts and ignoring of caste restrictions. In cases of intestacy, I would give half of self-acquisitions to wife and children and half to the *tāvazhi*. I would leave the testamentary power unfettered. I am Secretary to the Kêrala Sabha which is an association which was formed in 1878 in Calicut by certain educated Nayers, with the sole object of reforming the marriage system obtaining amongst the Marumakkathâyam people. The association was originally called Kêraliya Sudrâchâra Parishôdhana Sabha. The Sabha requested Mr. Krishna menon, Sub-Judge of Mangalore, to draft a marriage Bill for submission to Government. The active members of the Sabha left Calicut and the object of the Sabha was not pushed on. The numerical strength of the Sabha was 300 or 400 of whom 30 or 40 were at Calicut. For the last 3 or 4 years the Sabha has not been working. It became in 1881 a political association and that prevented the officials from taking part in the meetings. I would appoint the highest Marumakkathâyam caste man available as Marriage Registrar and would appoint one such Registrar for each Amsam or group of Amsams. The other suggestion is that a declaration should be made in writing by the bride and bridegroom. It should be in duplicate, in a prescribed printed form and might be sold by the Stamp Vendors who should endorse upon each form the purpose of the purchaser in purchasing it. I would retain freedom of divorce and not regulate it in any way, otherwise the proposed Act will be unpopular. The permissive law should not be one which will remain a dead letter. It should be one which the people will welcome. If the divorce provisions are retained I fear that very few people will avail themselves of the form of marriage provided by the Act. On mature consideration I think the Act might prohibit polygamy altogether. I do not regard the Kôrapuzha restriction as a caste restriction. The consent of the Kâranavans can be dispensed with where the intending bride and bridegroom are adult. They generally obtain the Kâranavan's consent. I would place no obligation on the Kâranavan to support the wives of the Anandaravans. On the death of a male, when his widow is sent away from his house a present of money will generally be made to her by the deceased's tarawâd heirs for mourning and other expenses. In 1881, a deputation requested the District Judge Mr. Wigram to address Government requesting that the legislature would grant to Marumakkathâyam Hindus the power of disposing of their self-acquisitions by Will. Mr. Wigram wrote a letter to Government accordingly but no action was taken upon it. I think this power should be granted to the people irrespective of any marriage legislation.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
4TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 65.

BEMBALÂSHÊRI KAMARAN NAYAR.

Age 44—Kasaba Amsam, Calicut—District Munsiff of Châvakkâd.

I have submitted my answers to the interrogatories. If Government declines to relax the restrictions on divorce I would gladly accept the Bill as it stands, rather than have

no reform. I would give the courts matrimonial jurisdiction with power to refer the matter to a caste panchâyat. In case of adultery by a wife the people would wish that the husband should be able to marry again, without putting away the adulterous wife, the latter of course losing her right of maintenance. Adultery and cruelty are the only reasonable grounds of divorce. If the Bill is to be acceptable to the people at large the amendments should be :—

- (1) The existing form of 'Sambandham' should be legalized,
- (2) Self-acquisitions of the husband should be divided half and half between wife and children and the deceased's tâvazhi,
- (3) The provisions as to registration by Sub-Registrar should be omitted,

The Act might permit a document to be drawn up as evidence of the marriage, and make it a subject of compulsory registration within the usual time prescribed. Two years might be given within which to register "Sambandhams" formed before the Act.

- (4) Customary restrictions as to consanguinity should be recognized.

There are now no restrictions as to affinity except that a man cannot marry his deceased wife's daughter or mother. I would reduce the age of majority to 16 or 18: beyond that age the guardian's consent should be unnecessary. I would place no restriction on the right of testamentary disposition over self-acquisitions. At Shernâd a few days ago about a dozen representative men (Nayars) were discussing the Bill with me. A Nâdu-Vâzhi (Chief-tain) was dead against the Bill. The rest were unanimously in favour of a marriage law. Some wished that in cases of intestacy $\frac{1}{3}$ should go to wife and children, $\frac{1}{3}$ to tâvazhi, $\frac{1}{3}$ to tarawâd. There is a great misconception abroad that the Bill is to turn people into Makka-thâyam. It is nicknamed the Makkathâyam Bill. When the object of the Bill is properly understood, all accept it as unobjectionable in principle. I practised as a Pleader in North Malabar. In my time, strife and litigation between Kâranavans and Anaudaravans were even more frequent in North than in South Malabar. As soon as a man becomes Kâranavan his thought is how he can benefit his wife and children at the expense of the tarawâd. In North Malabar the tarawâd is really composed of the male members and their wives living with them. In South Malabar among the masses, the general rule is the other way, that the wives remain in their own tarawâds and are there visited by their husbands. In South Malabar husbands who have independent means of supporting a wife, generally get their wives to live with them. In South Malabar in respectable tarawâds, Anandaravans having no independent means, are generally allowed to bring their wives into the tarawâd house as in North Malabar. Calicut Taluk follows North Malabar practice generally. The practice of wives living with their husbands in the husbands' tarawâd house has inclined Kâranavans to alienate tarawâd property to their wives and children and this has been one fruitful source of dissension from which several rich tarawâds have been ruined. This tendency is growing.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
5TH June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 66.

VÂPPÂLAKALATHIL CHAPPAN MENON.

Kôdhakurishi Amsam, Walluvanad—Age 34—B. A. Deputy Collector on General duty.

I have submitted my answers to the interrogatories. I would rather have the Bill with all its imperfections than no marriage law. In my answer to Question 39 I have made my suggestions as to the alternative to appearance before a Registrar. Previous public notice of marriage is not indispensable in my opinion. I think divorce must be restricted to reason-

able grounds. I don't think a caste panchâyat as a tribunal is a feasible suggestion. I can see no alternative to investing the regular courts with matrimonial jurisdiction. Where a wife was divorced for incurable disease, the husband should be compelled to provide for her maintenance. The uneducated people have no idea of what is proposed. The majority of the educated people favour it. I have made no enquiry as to the state of popular feeling as to the proposed legislation. During my tours through my Taluk I have found the ignorant people against the Bill. They are under the misapprehension that the object of the Bill is to change Marumakkathâyam into Makkathâyam at once. The Nambudiris and some Jannmis are against the Bill. Of those I have spoken to, about 60 % are in favour of the Bill and about 40 % are against it. The 40 % would include the Nambudiris, Sthânis and big Jannmis. All of those in favour of the Bill desire legislation in another form than that which the Bill contemplates. I would prohibit polygamy. In Calicut the majority of Nayar ladies live with their husbands. I don't think that this practice operates to induce Kâranavan husbands to alienate tarawâd property to their wives and children. The largest number of branches that I have known in a tarawâd is four. Each branch would be in age 4 or 5 generations. As a general rule, Nayar husbands have not separate houses. Such men as can afford it provide themselves with separate houses. In many cases the Anandaravans have separate buildings attached to the tarawâd house, live in them with their wives, and mess in the tarawâd all together. Generally there is detached building called the Pathâyapura having several rooms, which are allotted amongst the Anandaravans, where they live with their wives. The term *tâvazhi* is loosely used to indicate a branch of a tarawâd enjoying either separate property, or tarawâd property set apart for it. I know one tarawâd which occupies 13 or 14 separate houses each under separate management, but all nominally under control of one Kâranavan. The Nayars as a whole, I am afraid, are not improving in material prosperity. There are not, I should say, more than 50 tarawâds in the whole District that are not involved in heavy debts. I should say that about 60 % of the Nayars can get two meals a day from their tarawâd income. A large number of the young Nayars now live in indolence, relying on their tarawâd for food and refusing to do any work. Intermarriage between certain divisions of the Nayar caste, even though prohibited, would lead to excommunication from their division, but would not be regarded as an irregularity by the Nambudiris (because they regard us all as Sudras) and therefore there would be no exclusion from the temple or the temple tank.

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
5TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 67.

NELLÊRI MÂKKÂTA KUNYUNYAN NAYAR.

Age 41.—Anandaravan in tarawâd paying over Rs. 300 assessment. Mêladi Amsam. Kurumbranad.

I received the interrogatories but have not sent in my answers. I see no objection to a permissive marriage law being passed. The people would accept such a law, if there was no appearance before a Registrar and no necessity of a resort to court for a divorce. Restrictions as to caste and consanguinity and affinity should be retained. I think one-third of self-acquisitions should go to wife and children, one-third to brothers and sisters, and one-third to tarawâd. Most of the people I have spoken to, would approve of this. If the deceased had no wife and children I would give the whole of his self-acquisitions to his *tâvazhi* restricting their power to alienate, so as to save the tarawâd claim. Divorce can now be had at will of either party. I think it should be restricted to incurable disease, change of religion, adultery, impotence, separation after disagreement for one year. Some tribunal should be found to

settle whether any of these grounds was present. I have not been able to devise a fit procedure. Perhaps resort might be had to arbitrators. Kâranavans sometimes give part of the tarawâd income to their wives and children. This occasions dissension sometimes.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
5TH JUNE 1891

}

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 68.

TONDIYIL KOYITHANÂRI RÂRU KIDÂVU.

Age 49.—Pallikkara Amsam, Kurumbranad.

My tarawâd estates pay Rs. 500. I have not received any interrogatories. The people in my locality desire a marriage law. I have seen what was published about the Bill in the Kêrala Patriga. I think a majority of the people around where I live would not object to the proposed legislation. The forms of marriage in use in my locality are 'Puda-muri' and 'Ūzham porukkuga.' Caste restrictions on marriage ought to be retained. The Kôrapuzha restriction ought to be retained. I think that the North Malabar Nayar women should be allowed to come to the South of the river. I would not allow South Malabar Nayars to marry a North Malabar Nayar woman. The people object to bride and bridegroom going before a Registrar. I am not prepared to suggest any proper form of procedure as an alternative. I think half of intestate self-acquisitions should go to wife and children and half to deceased's own tâvazhi. The just grounds of divorce are incurable disease, adultery, habitual disobedience. Wives are not divorced in North Malabar except on such sufficient grounds. I would compel persons requiring a divorce to go to court. There will be great injustice if a panchâyat were resorted to. Even if a woman be adult, the consent of her Kâranavan to her marriage is and ought to be indispensable. Where the male is adult the Kâranavan's consent is not indispensable.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
4TH JUNE 1891.

}

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 69.

CHERUVILLATHA CHÂTHU NAYAR.

Age 36—Pallikkara amsam—Kurumbranad—Anandaravan in Tarawâd—Tarawâd pays nearly Rs. 200—Malayalam Pundit, Government College, Calicut.

I object to the proposed permissive marriage Bill, as it now stands. It will not root out the evils from which Marumakkathâyam Society is suffering. The legislation should be compulsory. The people must be made to like it. Only a minority will accept the Bill and it will remain a dead letter as regards the majority. There is now no valid marriage. In case of intestacy I would give one-third to wife and children and two-thirds to tâvazhi i.e. mother, brother and sisters. That is a division of which most people would approve. I am quite against polygamy, though it is a privilege accorded by Hindu law. Polygamy is now common in North Malabar. 50 per cent. of the people have more than one wife in Kurumbranad, without any sufficient ground whatever. I know instances in which a man has formed 'Puda-muri' with two or even three wives. I know an instance of a Nayar who has three

wives, all married by 'Puda-muri', living with him. Customary caste restrictions ought to be retained. The people don't like that bride and bridegroom should have to appear before a Registrar. I agree with what Mr. Krishna Menon (64th witness) said as regards registration and divorce. There ought to be freedom of divorce. * If the law were a compulsory one I would submit to any restrictions which Government thought necessary because it would be for the public good. I am the author of a novel called 'Minâkshi'. In it to the best of my ability I have drawn a true picture of social life in Malabar.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
5th June 1891.

H. M. WINTERBOTHAM.

Collector and Commissioner.

Witness No. 70.

PÊRÛR VÂSUDÊVAN NAMBUDIRI.

Kanniparamba Amsam,—Calicut—age 42—Tarawâd Kâranavan.

I pay Rs. 300 odd assessment. I have submitted my answers to the interrogatories. I have heard that polyandry existed here and there, but I know of no instance myself. I think it unobjectionable that a man should have more than one wife. No wife shall have more than one husband. My anandaravans have consorts among the Ambalavâsi Nayar women. If it becomes a custom for a Nambudiri to take a Nayar woman as his wife and to make him liable for the maintenance of her and her children, I should have no objection. In some cases the Nambudiris bring their Nayar consorts to live in their Illams.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
5TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 71.

KALPATHÛR CHÂTHAPPAN *alias* PAIDAL NAYAR.

Age 47.—Kottur Amsam, Kurumbranad Taluk. Anandaravan in Tarawâd—Tarawâd pays Rs. 3000, odd assessment.

I see no objection to the passing of a permissive law regulating marriage. I can only state my own opinion. I can't say what my neighbours think of the subject. I have not asked them. There is nothing like self-acquisition in my Tarawâd. If any one has any self-acquisitions let him do what he likes with it.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
5TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 72.

VAZHÔTHA PALLIYIL UNHIKUTTI KIDAVU.

Age 43.—Naduvannur Amsam, Kurumbranad.

My branch of the Tarawâd pays about Rs. 1300 assessment. I am the second member in my branch. I see no objection to a permissive marriage law as far as I am concerned.

Almost all the persons I have spoken to, and I have spoken to many, are dead against any legislation because they are under the mistaken impression that the purpose of the Bill is to change them from Marumakkathâyam to Makkathâyam. None of my neighbours knows English. All the persons in my locality are staunch conservatives. I was educated at Calicut and am a Matriculate. The people object to what they think to be customs of divine origin being interfered with. Although the Bill is to be at first permissive they think it will be eventually made compulsory.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
5TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 73.

KÔMATH RAMAN NAYAR.

Age 42.—Anandaravan in Tarawâd paying Rs. 3000 assessment.—Iringath Amsam, Kurumbranad.

My opinion and that of my neighbours is adverse to legislation to regulate marriage. They object to the Bill. They object to any marriage before a Sub-Registrar. Old customs should be retained. In case of intestacy one-third might go to wife and children and the rest should lapse to Tarawâd. I have not seen the interrogatories. I see no objection to father being guardian of his children. I regard him as joint guardian with the Kâranavan. The Kâranavan should be the supreme guardian. There is no objection to the wife and children being declared to have a right to maintenance from husband's self-acquisitions, but such a provision seems to me quite unnecessary.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
5TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 74.

KUTHÂMBALLI GOVINDAN NAMBIYAR.

F. A.—Age 41.—Iringapuram Amsam, Ponnani.—1st Grade Pleader practising at Calicut.

I have submitted my answers to the interrogatories. My Tarawâd pays between Rs. 600 and 700 assessment. I object to any law restricting the freedom of divorce. I think polygamy is an institution which must continue. There are many instances in which it is highly desirable. I strongly desire legislation legalizing the present form of Sambandham. I would let the father be guardian of the person and separate property of the wife, but I would reserve for the Kâranavan a right to interfere for the benefit of the wife or children. In cases of intestacy my mature opinion is that the best plan would be to divide self-acquisitions as follows:— $\frac{1}{2}$ to wife and children, $\frac{1}{4}$ to Tarawâd and $\frac{1}{4}$ to deceased's own *Tâvazhi*. The few persons I have discussed the matter with favour this. When a wife visits her Tarawâd house with her husband's consent, the law should provide that the Kâranavan is bound to maintain her. I share the common objection to the personal appearance of the bride before a Marriage Registrar. As regards caste restrictions, I would leave it to public opinion to maintain them. The Bill should uphold all customary restrictions as to consanguinity or affinity. I think that at marriages a declaration in duplicate might be signed by the parties and their guardians when guardians are necessary, and be attested by witnesses, and thereafter be registered like an ordinary document. I would have the registration compulsory. I would have no restriction on the testamentary power over self-acquisitions. Where a divorce was

contemplated, I would make the party seeking a divorce give some notice of it in such a way as to be beyond dispute. I would fix a term of 3 years and if the notice was not revoked the marriage should become dissolved at the end of that period. I would not punish the husband for marrying again in the interval of probation. If the woman married again in the interval of probation she ought to be punished for bigamy. I should have no objection if the husband were made equally punishable with the woman. I know of one Tarawâd which consists of over two hundred members under the nominal control of one Kâranavan. As a fact there are several branches each managed by a junior member. Polygamy would be strongly objected to by the women. I think the Act should not recognize caste restrictions on marriage. In South Malabar Sambandham is the only recognized form of marriage. There is no religious element in it, unless the presents to Brahmans to invoke their blessings, may be considered so. There is no religious rite performed in the ceremony. The connexion of husband and wife creates no obligations as to the performance of funeral ceremonies. Sons, daughters, nephews, and nieces now all customarily perform funeral oblations. Thus there is a double set of oblations. I never heard of nephews authorizing sons to perform the funeral rites of the latter's fathers. I have been in practice as a pleader for 15 years. The Tâli-kettu has all the incidents of a formal marriage but the union is dissolved by cutting a cloth. I do not mean to say that the tâli tier would have the right to cohabit if the cloth-cutting ceremony were omitted. Throughout South Malabar, as far as I know, the cutting of the cloth is part of the tâli-kettu ceremony. I do not see any religious element in the ceremony of Tâlikettu. I have sons but no daughters. In Choughât the man who ties the Tâli (the manavâlan) and the damsel are supposed to live together for 4 days. The fiction is that they ought to pass the night together. They eat together. On one occasion I have myself acted as Manavâlan and I did pass the night in the same room with the girl for 4 days. On the 4th day the cloth was torn in two and my relation as Manavâlan ceased. I don't know what becomes of the torn cloth. The Tâli-kettu invariably takes place before the girl attains puberty. The impression is that the omission to perform Tâlikettu before puberty would entail loss of caste on the girl. I have discussed the Bill with the local members of the Bar in the Library. The Nayars would number about 15. All of them were agreed that marriage legislation in some shape was necessary. Some of them were prepared to take the Bill as it is, if they could get nothing more acceptable. Three or four were of this opinion. The others wished various modifications, mainly in accordance with what I have above suggested. They had all received an English education. One, a native of Cochin, was against any sort of marriage legislation. I don't believe polyandry has entirely ceased to exist, but I don't know of any instance myself. Walluvanad is said to be the locality where it survives. The official classes of Nayars have mostly cast off all caste restrictions and objections as regards taking refreshments whether in office, at Railway Stations, or at home. As regards marriages the old prejudices maintain their ground. My personal opinion is that caste restrictions should not be recognized by law, but I recognize it as being impracticable to abolish caste by law at any rate for half a century or so. I have practised as a Pleader at Tellicherry for 12 years. I don't believe that more than two or three cases of polyandry could be found in the whole of Malabar. I am a member of the Kêrala Sabha. The last meeting took place in 1887. I know of only one literary society of Hindus in South Malabar out of Calicut. That is at Ponnani. Amongst the respectable classes in South Malabar, 'Sambandham' usually lasts for life. Not one husband in five, divorces once in his life-time. Cases of capricious divorce would not exceed 5 %. I have myself never known of 5 instances. The freedom of divorce at will operates as a sufficient check upon the exercise of that freedom. Social opinion also acts as a very strong check upon any divorce. Polygamy is more common in North Malabar than in South Malabar.

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
6TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 75.

CHANGALATH KUNJI RAMAN MENON.

Kasaba Amsam.—Calicut.—Age 32.

Am a Member of the District Board. B. A. Am the Editor of the *Kerala Patrika*. Have been so for 6 years. I have not sent in my answers to the interrogatories. I am prepared to accept the Bill except in the matter of the bride's appearance before the Registrar. Where the Registrar happened to be of the same or higher caste, than the bride and bridegroom, and if he attended at the marriage free of cost, there would be no objection. The statutory form of marriage might be retained and the existing form 'Sambandham' might likewise be legalized.

As a concession to public opinion I would allow a part of intestate self-acquisitions to go to a man's *tāvazhi*. The majority of the people would wish half to go to wife and children, and half to the *tāvazhi*. No part should go to the Tarawād Kāranavan. The people wish the 'Sambandham' to be legalized. There are cases where man and woman cohabit without formality and without the consent of their guardians. There are several such cases. If the man and woman are of equal caste, such unions entail no social penalty. Such cases occur when young persons fall in love, and their guardians oppose their union. I personally know of about ten such cases and have heard of others. This procedure is generally followed where guardians oppose the union of a young couple who love each other. Amongst us, we don't call such unions clandestine. In the case of such unions the girl has generally been below the age of 20. There is also no formality where the husband is a Nambudiri, a Tamburân (prince) or a Nâdu-Vâzhi (chieftain). The Nambudiripads in Walluvanad dislike that it should be known that they consort with Sudra women. They obtain the girl's Kāranavan's consent, and visit the girl without any sort of formality. The Nambudiripad is generally the big land-lord of the place and by his influence he can generally get the consent of any of his tenant-Kāranavans who are Nayars to visit the girls of their tarawâds. Some of them esteem his visits an honor. Of late Nayar husbands in South Malabar who have independent means, always bring their wives to live with them. The rule still is that the South Malabar wife resides after marriage in her own tarawâd, unless she is wife of a Kāranavan. Anandaryans now lead an idle life. I think if the proposed legislation becomes a law they will have an incentive to work for their wives and families. The women of Malabar, as far as I can judge, view the proposed legislation with favour. In Palghat there is a form of Nayar marriage, "Kidakkura." I think the etymology is '*Kidakka*'=lying, or cohabitation and '*Mura*'=turn—turn of cohabitation. The custom in Palghat is for a friend of the bridegroom to say to the senior lady in the bride's house "Let this youth come and sleep and go for 6 months."

There is no such formality as this except in Palghat. The meaning is that the six months should be a period of probation. It does not influence the conduct of the parties, for they can separate before six months if they choose. The "Kidakkura" union sometimes lasts for life. In the majority of cases 'Sambandham' does not last for life. It is only amongst respectable people that it does so. In North Malabar the union is more binding than in South Malabar. In many cases the man and wife cleave together for life. The *tâli kettu* is not a marriage. I find it exactly corresponds with the ceremony the dancing girls go through in Madras, and I believe that the Nambudiris introduced it to put the Sudra women on a level with dancing girls. This view is supported by the account given in the *Kerala Mahâtmyam*. The book is a lecture in Sanskrit by Garga Rishi to Yudhistara Maha Rajah. I don't know anything about the authorship. The ceremony of *tâlikettu* is socially regarded as a ceremony giving a girl marriageable status. I would not recognize caste restrictions, and I approve of the provisions of the Bill as to consanguinity and affinity. The law should not interfere to support caste restrictions. I do not regard proviso 2 in Section 4 of the Bill as an interference with caste customs. I approve of the principle that the legislature should not interfere with caste customs. If a high caste man chooses to marry a low caste woman contrary to rules of caste, I think the law

should not pronounce such marriage to be invalid. It is only a permissive law and would not interfere with social usages in my opinion.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,
5TH June 1891

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 76.

PULÂPRÉ GOVINDA MENON.

Age 37.—Azhinyilam Amsam, Ernad Taluk.—Tarawâd Kâranavan.—Janmi paying Rs. 3000 assessment.

I have sent my answers to the interrogatories. My view is that no change in existing custom is advisable. Most Malayâlis are of opinion that our 'Sambandham' is a valid marriage. There is no other form in Ernad Taluk. Many people have expressed to me their objection to any change. My tarawâd has about 700 tenants, of whom over 100 are Nayars. I have discussed the matter with people of my amsam and of the surrounding amsams. I fear the new law would increase litigation. I think it would be injurious to the Marumak-kathâyam custom. There are a few English educated men in my amsam. They share my opinion. My amsam is 8 miles South East of Calicut. Wife and children ought to get a share of the father's self-acquisitions on his death intestate. I think they ought to get half. The other half ought to go to the Tarawâd, not to *tâvazhi*. Fathers now make provision for wife and children by gift *inter vivos*. I am in favour of according testamentary power over self-acquisitions. Most Nayar wives live with their husbands. They always do so if their husbands can afford to maintain them and the children. Most junior members of tarawâds have no separate means wherewith to support a wife. In such cases the wife remains in her own tarawâd. I think the wife's Kâranavan is the proper guardian of the wife and children. If she lives with her husband, the husband ought to be the guardian subject to the Kâranavan. If the wife lives with her husband in her husband's tarawâd then the husband's Kâranavan ought to be guardian. I see no anomaly in a person having 3 guardians according to his or her place of residence. A junior member will not bring his wife into the tarawâd house without the Kâranavan's consent. In most cases the Kâranavan's previous consent to the marriage is obtained. A Nayar may not marry his deceased wife's sister or any member of her *tâvazhi*. If the deceased wife's tarawâd has more than one *tâvazhi*, there is no objection to marrying a female in one of the other *tâvazhis*. Polygamy is rare, and I think it should be prohibited. Divorce is not common. Sambandham usually lasts for life. I know of 4 or 5 cases of divorce on sufficient grounds. Adultery is the proper ground of divorce. Occasionally when a man takes a fancy to another woman, he divorces his first wife. I have never heard of an instance of a Nayar woman divorcing her Sambandhakâran. I have never heard of an instance of a woman having two Sambandhakârâns at the same time. In my life I have never heard of a case of polyandry. Now either the wife or husband can divorce arbitrarily. Such conduct would be disapproved, but it would incur no social penalty. Such conduct being improper, I would not object to a law restraining capricious divorce. I think adultery and incurable disease are the only reasonable grounds of divorce. I have not heard of an instance of a quarrel between Kâranavans leading Anandaravans to divorce their wives. Even amongst the lower classes of Nayars, who are labourers, it is not common to change Sambandham. The head of my sub-division, which is "Menon," is the Zamorin. I am of the Agathachârna division. It is the Zamorin who should settle all caste disputes among us. Other sub-divisions are under other Rajahs and Prabhûs (chieftains). In Walluvanâd the Walluvanâd Rajah has caste jurisdiction. The caste heads should settle caste disputes according to recognized usage. If the Zamorin directed us to disregard the established usage as to Sambandham, he would not

be obeyed. Caste disputes are only referred to the Zamorin by courtesy. We Nayers are not bound to refer to any body's opinion in caste matters. I have had my attention drawn to my answer 25. It is a fact that by custom the woman can terminate a Sambandham at her pleasure. I and Mâdambath Govinda Menon (77th Witness) have discussed this subject and are of one opinion. We therefore sent in similar answers to the interrogatories. A tarawâd has generally only two or three *tâvazhis*. By a *tâvazhi* I mean a branch with separate management, but not formally divided. I don't remember more than 4 *tâvazhis* in any case. Where a tarawâd has many members there may be internal dissension but not so as to injure the family. When wives of junior members are brought into a tarawâd, they generally get on with the family in harmony. Mine is one of the well conducted tarawâds. I have no family-tree in my tarawâd. Except when a family-tree is required for the purposes of a suit it is not the local custom to prepare one. What I have said in my answer to question 40, is the fact, namely that there are many Nayers who belonged to the same tarawâd, who now do not mutually observe *pula*, because the relationship is distant and only rests on hearsay. There is only one period of *pula* for all Nayers, viz 15 days, no matter how distant the relationship of the deceased. After two or three generations *pula* is not observed. In such cases the relationship can only be known by tradition.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
8TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 77.

MÂDAMBATH GOVINDA MENON.

Age 51.—Azhinyilam Amsam, Ernad Taluk.

Am Tarawâd Kâranavan, and Pleader in Shernâd District Munsiff's Court. My tarawâd pays about Rs. 500 assessment. On some points I don't agree with Pulâpré Govinda Menon (76th witness). A man should either dispose of his self-acquired property by gift or by Will. If he neglects to do so, the whole should go to his tarawâd and no part to his widow and children. In my opinion it is not proper for a man to marry in his deceased wife's tarawâd. I say that polygamy is already prohibited by public opinion. There are some people who set public opinion at defiance. No law is wanted to stop what public opinion disapproves. There is nothing like capricious divorce practised now : therefore no law is required to restrict divorce. As long as Marumakkathâyam stands, the wife's Kâranavan, not the father, should be guardian of wife and children, even if wife and children live with the father. In my locality the Nayar wife generally lives with her Anandaravan husband, in the Anandaravan's tarawâd house, if the Anandaravan's Kâranavan approves of the marriage. Wives will live part of the year with their husbands and part of the year in their own tarawâds. The period will depend on their husband's pleasure. I think probably that in the majority of cases the wife lives with the husband in his separate house, or in the husband's tarawâd house. The Nayar husband will not set up in a separate house in more than 5 cases in a hundred. I would vote against any legislation as regards marriage. I would accord an unrestricted power of testamentary disposition over self-acquisitions. That is the wish of such people as I have discussed the matter with.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
8TH JUNE 1891 }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 78.

ULLANÂTTA KUNYI KÔMA PANIKKAR.

Age over 60.—Vengidanga Amsam, Ponnani Taluk.—Tarawâd Kâranavan.

My tarawâd pays Rs. 7000 odd in British territory. Have land paying Rs. 1000 in Native Cochin. I have sent in my answers to the questions. In case of intestacy half of self-acquisitions should go to wife and children and half to tarawâd. Testamentary power over self-acquisitions should be granted, with the restriction that wife and children must be provided for. Husbands who can maintain their wives generally have their wives to live with them. If the husband has not the means to support the wife, the wife stays in her tarawâd house and is there visited by her husband. If the Kâranavan consents, the Anandaravan will bring his wife to the tarawâd house. At Chaughat there are many cases in which the Nayar husband has set up a separate house for himself. I should say that in 30 cases in a hundred, the Nayar husband would live with his wife in a house set up by himself. In many cases the tarawâd lands are scattered, and there will be separate form-houses (Kalams) in which the Anandaravans live with their wives. In the 30 % living separately I include such cases. Perhaps in 5 or 10 % of the marriages the husband may set up house from his own self-acquisitions. It is a common practice for the Kâranavan to lease out scattered lands to the Anandaravans, and the Anandaravans take the surplus over the rent as their self-acquisition. There are a great number of Nayars in my locality who work for hire. Their wives do not generally work for hire, except at harvest. Amongst such working classes the wives generally remain in their own tarawâd houses. In my part there are few Nayars who have studied English. I think it is the father who should be the legal guardian of his wife and children. Where the wife lives in her own tarawâd there will be difficulties, but somehow the Kâranavan and the husband will agree. Caste restrictions and those on consanguinity and affinity should not be interfered with. Females should be exempted from appearance before a Marriage Registrar. I suggested a caste panchâyat as a tribunal for matrimonial cases, but I don't think it will work satisfactorily. I made the suggestion in deference to the common objection to resorting to Court for a divorce. I can't make any other suggestion. I have consulted many people on this point, about one hundred. Last year we got up a petition in Vengidanga Amsam and sent it to Government. 1015 people signed it. I signed it first and a number of the petitioners met together and signed it before me. Signatures were also obtained through trustworthy agents. I feel sure the signatures are all genuine. That is the petition and that is my signature now shown to me. Where the Nayar wife is of a lower division than the husband, the sons will nevertheless perform the fathers' funeral ceremonies. There is an exception where the father is a Brahman. His sons by a Sudra woman do not perform his funeral ceremonies. As soon as a Nayar dies, if his widow and children are living with him, they are sent out of the house before the corpse is removed for cremation. Sons incur no social penalty if they neglect their father's funeral ceremonies. Nephews so neglecting would incur a caste penalty. They would not be associated with. I have heard of cases of polyandry. I may have known of 5 or 10 in my lifetime in my locality. There are no such instances now.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
8TH JUNE 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 79.

PANIKÔT KANDAR NAYAR.

F. A.—Age 29.—Manjéri Amsam, Ernad Taluk,—2nd Grade Pleader practising at Ernad District Munsiff's Court.—Tarawâd Assessment Rs. 100.

I am in favour of a permissive marriage law, but I strongly object to provisions of the Bill regarding registration. I think the Ūrâlans of a temple in each amsam might be appointed to register marriages. There are temples in every amsam. The Ūrâlans might be allowed to depute their powers. I do not know of any instance of polyandry of my own knowledge. I believe it has disappeared within the last 20 years. I wish to retain the present caste and customary restrictions on marriage. I would permit divorce for adultery and incurable disease, and would not allow it capriciously. I would vest matrimonial jurisdiction in courts of justice, because I see no other alternative. The people would not like it. On reconsideration I would give half of intestate self-acquisitions to wife and children, and half to the Tâvazhi. I would make the father the guardian, and if he has no means, he should work and earn something. It should be the wife's duty to live with the husband. I think the people would like it. I would retain the restriction on the power of testamentary disposition in favour of wife and children. I have only discussed the subject with two or three persons. Until six or seven years ago, the Nayar women of the labouring classes used to work in the fields in Ernad. I don't see them doing so now. I don't think the bulk of the Nayars are increasing in material prosperity. I would prohibit polygamy.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
8TH JUNE 1891, }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 80.

AKKITATHA ACHUDAN SÔMAYÂJIPÂD.

Age 43.—Alangôd Amsam, Ponnani Taluk.—Anandaravan in Tarawâd—Tarawâd pays Rs. 450 Assessment—Makkathâyam Brahman.

I have sent in my answers to the interrogatories. I understand the Bill to be intended to change Marumakkathâyam into Makkathâyam. As a marriage the only ceremony the Sudras have is the Tâli-Kettu Kalyânam. It is a *Vivâham* ordained by Sankarâchariyar. So I have been told. Whether it existed before Sankarâchariyar I don't know. I don't know whether Tâlikettu is one of the 64 Anâchâram of Malabar. Here we don't speak of them as Anâchârams but as Âchârams prescribed by Sankarâchariyar. Amongst Nambudiris the father ties the Tâli. If after tying Tâli and before Pânigrahanam the bridegroom were to die, the Nambudiri (Antarjanam) could not marry again. At least that is my belief. I have never known such a case. I regard the Tâlikettu amongst Sudras as the *Vivâham*. It does not create the relation of husband and wife. It creates the capacity to form Sambandham. The Sambandham does not create the relation of husband and wife. Brahman women are alone under any obligation to chastity. I can't quote any authority for this position. A Nayar may consort with his deceased wife's sister. I don't know what the Nayar usage on that point may be. A Nayar cannot marry in his own Tarawâd. I am the manager of my Tarawâd. Some of the men of my Illam consort with Nayar women. In some such cases the union lasts for life. In such cases the Nambudiri would not be pleased if the woman proved unchaste. If she said "Parasu Râma's decree allows me to be unchaste," he would not agree with this. In the majority of cases the union of Nayar man and woman lasts for life. I am not aware

of any instances of polyandry existing at present. I don't know which is the older work, the Kêralôlpathi or Kêrala Mâhatmyam ; nor do I know anything about their authorship.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
8TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 81.

MÔNDAMBALATH NÂRÂYANAN MÛSSAD or TINANJÊRI ELAYAD.

Makkathâyam Brahman—Age 57—Arimbra Amsam—Ernad Taluk.

Am the Kâranavan of my tarawâd, paying over Rs. 1000 in my own name. My tenants pay Rs. 4,000 or 5,000. I have sent in my answers to the questions. Although my opinion is that a permissive marriage law is unobjectionable, the public in my locality object to the proposal. They think the new law will create family dissensions which will ruin tarawâds, and that it will create two different rules of inheritance in the same tarawâd. The provisions making the wife heir to her husband's self-acquisitions may even tempt wives to poison their husbands. Some disapprove of meddling with a usage which has prevailed ever since the creation of Malabar. In my answer 14, I don't mean that the man who ties the tâli can cohabit till he forms Sambandhâm. So far as I have enquired every one objects to the proposed Bill. I have about 2,000 tenants. I have asked very many of them and they are all against it. It is common for a Nayar girl to be given in Sambandham to her mother's brother's son (first cousin).

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
8TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 82.

MALAPURATH PÂRA NAMBI.

Age 61—Kizhmuri Amsam,—Ernad Taluk—Marumakkathâyam Nayar Janmi.

My tarawâd pays about Rs. 500 but my tenants pay about Rs. 10,000.

I would support compulsory legislation to regulate marriage and have therefore no objection to a permissive marriage Bill. Most of the country people don't understand the proposed measure. Those who understand it are in favour of it. The majority oppose the Bill, because they fear any sort of change. They think the new law is intended to convert them to Makkathâyam. I have spoken to about 50 men at Malapuram who are in favour of the Bill. They are persons who have had the intention of the Bill explained to them. I don't know what alternative to propose in place of registration before a Marriage Registrar. For the last 5 or 6 years I think polyandry has ceased. There are many cases of capricious divorce. This is especially found when Brahmans consort with Nayar girls. In about 5 % of the total number of marriages a capricious divorce will take place. Adultery is the only proper ground of divorce. Incurable disease in the first wife will justify a man in taking a second wife. I think that divorce should be regulated. I would invest the Courts of justice with matrimonial jurisdiction. Perhaps a panchâyat would answer. In case of intestate self-acquisitions, if the deceased be an Ananda-

ravan the whole should go to wife and children. Self-acquisitions made after acquiring the post of Kâranavan should be divided half to wife and children and half to tarawâd. Husbands who can afford to support their wives, generally have their wives to live with them. Kâranavans always do so. It is very rare that Anandaravans can support their wives.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
8TH JUNE 1891

}

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 83.

KUTHÂMBALLI KRISHNAN NAMBIYAR.

Age 52—Iringapuram Amsam—Ponmani Taluk.—3rd member of the Tarawâd.

My tarawâd pays a revenue of Rs. 600. I did not sign a petition to Government about marriage law. I am in favour of a permissive law of marriage for the Marumakkathâyam people, provided that it would not in any way interfere with the prosperity of Marumakkathâyam Tarawâds. The majority of the intelligent and well informed among the people generally are also in favour of such a law. I have spoken to many people on the subject. Only a few spoke against it. The majority of the people of all classes are in my opinion in favour of legislation and they also wish that the law should be so framed as not to clash against the Marumakkathâyam law. I think that not less than one half of the property of a person dying intestate should go to his children and the remainder to his own Tâvazhi. This is also the wish of the people in my part of the country and others to whom I have spoken. I should like that we should have testamentary powers of disposing of our property without any conditions attached to them. I would make the father the guardian of the children. When the wife lives in tarawâd house, she is not entitled to claim her maintenance. She is still entitled to get oil and cloths when she lives. I would retain caste and other customary restrictions. Polygamy prevails to some extent. In certain circumstances such as barrenness, incurable disease, polygamy may, I think, be permitted. In such cases I should think the first wife would consent. I have not heard of polyandry among Nayars. The customary form of marriage may be retained. I do not think registration before Registrar desirable. I think some respectable men of Nayar or higher caste in each amsam may be appointed as Marriage Registrars before whom marriages may be solemnized. Disagreement between the husband and wife, ill feelings between the Tarawâds of the husband and wife and adultery are good grounds for divorce. I should think that 6 per cent may be said to be the average number of divorces on marriages among Nayars. I have not known cases of arbitrary divorces whether in my part of the country or elsewhere. I am a Kiriya caste. Our caste disputes are settled by the chief Tarawâds in our own caste. Tâlikettu ceremony is not marriage but is one of the *Samskârams* or religious ceremonies which girls undergo before they attain puberty. If the husbands are very wealthy the wives live in husbands' tarawâd. Among the poorer classes such as earn their livelihood by cooly work, the husband and wife live together and labour together for their livelihood. In respectable houses when the Kâranavan and Anandaravans live in harmony, the wives live in the husband's house. In other cases the wives live in their own tarawâds. In my opinion the number of cases in which the wives live with their husbands will be 50 per cent. About one half of that percentage will be cases in which the wives live with their husbands in their husband's own house, separately from the husband's tarawâd. Usually the Nayars give property to their wives and children. Some part of their self-acquisitions is always reserved for the tarawâd. I cannot mention any definite share in which they give property to their children or reserve for their tarawâd. Any law of divorce which does not necessitate the parties to resort to Court to obtain it, may be passed. I would have freedom of divorce. If either party wishes for

a divorce, he or she shall have it one year after the date of a notice to be given to the opposite party announcing his or her intention to divorce. This period is given in order that the parties may be reconciled within that time through mediation of friends &c., and to prevent a hasty divorce on sudden provocation &c. I have learnt English.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
9TH JUNE 1891. }

O. CHANDU MENON,
Commissioner.

Witness No. 84.

MUTTÂYIL VÊLAPPA MENON.

Neduva Amsam—Ernad Taluk—Age 56.

I am the Kâranavan of my tarawâd. I pay a revenue of Rs. 130. The people generally are against the Bill. They say that if it is passed two systems of inheritance will prevail in the same tarawâd. I have no objection to a law which would not interfere with the Marumakkathâyam system of inheritance. This is the popular opinion in 4 or 5 of my neighbouring amsams. 90 per cent. of the people think so. I would give the whole of the property of a man dying intestate to the Tarawâd. The Kâranavan ought to be the guardian of the children and not the father, for 90 per cent of the wives live in their tarawâd houses. Even in cases where the husband has self-acquired property and the wife lives with the husband, I would have the guardianship in the Kâranavan. There should be no right vested in wife and children to ask for maintenance from their husband and father respectively. Generally wives and children are not maintained by the husband and father respectively. I have myself given Rs. 5,000 worth of property to my wife. My wife lives with me in my tarawâd. But a husband should not be made liable to pay maintenance. I would not restrict polygamy. I agree with the last witness Kuthâmballi Krishnan Nambiyar in his suggestions about divorce. As to caste and other restrictions of marriage and registration, I agree with the witness. I belong to a caste which is *Chârna* to Parappanad Rajah. We settle our caste disputes among ourselves. Tâlikettu is a preliminary ceremony to marriage. At the end of the Tâlikettu Kalyânam (4th day) the Manavâlan cuts a double cloth and puts one piece on a plank and takes the other piece for himself. The person who ties the tâli and the girl do not sleep together during Kalyânam. Any Enangan or casteman ties the Tâli and this ceremony takes place always before puberty. Among Nayars the ceremonies for the spiritual benefit of the deceased are the funeral ceremony, the Shrâdham and the Amâvâsi. Neither the wife nor the children take any part in these ceremonies. When the father is a Nayar his sons of whatever caste being a Sudra may perform the father's Shrâdha. A religious Nayar bathes in the morning, says his prayer and reads his religious books. In the evening he bathes again. On special days he goes to the Temple. Each house has a tutelary deity. The wife generally makes all arrangements to enable the husband to offer his prayers. In the absence of the wife any other woman might do this. The people generally desire that there should be no provision changing the succession of self-acquired property of a Nayar according to Marumakkathâyam.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
9TH JUNE 1891. }

O. CHANDU MENON,
Commissioner.

Witness No. 85.

PADIPURAKKAL NÂNU MENON.

Kâranavan of the Tarawâd—Age 40.—District Board Member.

I pay Rs. 3000 as Revenue. I am in favour of legislation conformatory of the existing usage. I am against the Bill in its present form. I have read the Bill. The people agree with me so far as I know. The wife and the children should be entitled to maintenance out of self-acquisition if the husband dies intestate. What I stated in my answer paper on this point is a mistake. The remainder of the property after providing for maintenance of wife and children should go to the Tarawâd. When the wife lives with the husband the husband should be the guardian. In other cases the Kâranavan is the guardian. In the majority of cases, the wife lives with the husband in his Tarawâd house, or, in his own house. I am a native of the Southernmost amsam in South Malabar. Ordinarily the wife is maintained by the husband's Tarawâd when she lives in the Tarawâd house. I would not create an obligation in any husband to maintain his wife and children, because all good husbands maintain their wives and children. A law on this point is therefore unnecessary. I am for unrestricted testamentary power being given to Nayars in respect of their self-acquired property. No registration is necessary because marriages are celebrated now with sufficient publicity. I would recognize Sambandham as marriage and attach to it rights and liabilities prescribed by the law. The present practice of divorce should be retained. If it is to be restricted it might cause husbands to poison their wives and *vice versa*. There is no objection to divorce being regulated according to the suggestions of the 83rd witness Krishnan Nambiyar. Polygamy should not be done away with. I have heard of one or two cases of polygamy. I would not make the husband liable to pay maintenance to wives because they do maintain now.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
9TH JUNE 1891. }

O. CHANDU MENON,
Commissioner.

Witness No. 86.

CHANNAZHI KRISHNAN MUSSAD.

Age 41.—Makkathâyam Brahman—Ponmala Amsam, Ernad Taluk—Târawad Kâranavan.

Tarawâd pays Rs. 300 assessment. Has also about 500 tenants, mostly Mapillas, who have puttahs. I have sent in my answers to the questions. I do not think any marriage legislation is necessary. I have given my objections in my answer 38. It will introduce family dissension. Kâranavans will be tempted to misappropriate tarawâd property. There will be two diverse systems of inheritance in the same family. Nephews will neglect to perform *Shrâdha* (funeral obsequies) if self-acquisitions cease to go to them. Where the wife is of a lower division than the husband, if the husband falls sick, neither she nor her children can nurse him, and his tarawâd relations will have no motive for taking care of him. Marumakkathâyam is a divine institution which ought not to be meddled with. In my locality most Nayar wives live after marriage in their own Tarawâds. If the husbands have property the wives will live with them. This is not proper according to old usage. I do not say that the Nayar women should be forbidden by law to live with their husbands.

As to whether they should be allowed to do so, the supreme authority must decide. Old usage ought not to be departed from.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
9TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 87.

CHAPPUNHI *alias* AIYÂYIRAPRABHU KARTHÂVU.

Age 29.—Tenyipalam Amsam, Ernad Taluk.

Marumakkathâyam Tarawâd. Tarawâd pays directly about Rs. 200 as assessment. My tenants pay about Rs. 2500, as assessment. There are about 500 or 600 tenants. About 100 or 150 are Nayars. 'Sambandham' is the customary form of marriage amongst Nayars. I would wish to see enticing away a married woman, and adultery made punishable. I would wish a woman to be punished who took a second Sambandhakâran without properly getting rid of the first. Seven-eighths of the Nayar women in my locality live with their husbands. Their husbands do as a fact maintain them. I would not pass a law giving the wives the right of maintenance during their husband's lifetime. If the husband died intestate I admit that his widow and children have a claim to maintenance. I would give half of his self-acquisitions to the wife and children, and half to the tarawâd. That is only my own view. My tenants are poor people who don't know anything. So I have not consulted them. I think testamentary power should be accorded. I also think the power should be subject to wife and children's claim to maintenance. I think the father is the proper guardian of his wife and children. It is only rarely that the wife and children would reside in the wife's tarawâd. I should object to registration of marriage. As regards divorce the Nayars of both sexes now do what they like. I admit that that is objectionable. Capricious divorce should be restricted. It might be made compulsory that one party should give the other six months' notice by registered letter, within that time they would somehow arrange the matter between them. Out of my Nayar tenants I think about 100 husbands have their wives living with them. I think my tenants holding puttahs would pay about Rs. 5 or 6 as assessment on the average. I should be in favour of permissive legislation in accordance with my above sentiments.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
9TH JUNE 1891

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 88.

PADINYARÊPÂTTA GOVINDA VÂRIYAR.

Age 61.—Tiruvâli Amsam, Ernad Taluk.

Am Tarawâd Kâranavan. Tarawâd pays Rs. 300, tenants pay about Rs. 40 besides. I have sent in my answers to the questions. I object to appearance before a Marriage Registrar. Something ought to be devised which would not compel a bride to appear before a Registrar. I see no objection to passing a permissive marriage law. Capricious divorce is not

common. I admit it should be restricted. I object to restricting divorce by law. I admit there is no objection to a law which provides that a wife shall not be divorced except on reasonable ground. Divorces are very rare, and capricious divorce does not take place. If divorce takes place it is for adultery on the part of the wife. The wife and children have a just claim to maintenance from a deceased husband's self-acquisitions. I would give them a share according to their necessities and the balance should go to the tarawâd. Testamentary power over self-acquisitions should be granted. If a husband has means, he will have his wife to live with him. Otherwise she will remain in her tarawâd. There are very few cases in which a wife will live the whole year in her husband's house. A Kâranavan cannot generally leave his estate and therefore his wife generally lives with him. Anandaravans can leave their houses, and therefore can visit their wives at their own tarawâd houses.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
9TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 89.

CHIRALAM PUDHIA VITTIL GOVINDAN NAYAR.

Native of Eramom Amsam, Chirakkal—Permanent resident at Casergôd in South Canara.

Age 34.—Editor of the 'Kêrala Sanchârî' Malayalam Newspaper, for two years.

I have read the proposed Bill. I have discussed its provisions with many people. The paper had 900 subscribers, but the number is now reduced owing to the manager requiring pre-payment. A majority of the people object to a permissive marriage law. It is the English educated minority who, some of them, desire legislation. Of those I have consulted *ie* about 50, a majority are against the Bill. I have received many contributions on the subject for publication, but have not published them all. Of those who oppose, a majority are not opposed to legislation regarding marriage, but they have strong objections to details in the Bill. They object to registration before Sub-Registrar. They would have men of their own caste appointed as Marriage Registrars, one for each amsam. If a Brahman were appointed he would do for all castes. As to intestate succession, no one thinks the wife and children should take the whole. Some would give them $\frac{1}{2}$, some $\frac{1}{3}$, some $\frac{1}{4}$. All people would give them some share. The balance they would give to the deceased's *tavazhi*, not to the tarawâd. All think that the customary restriction as to consanguinity should be maintained: so also customary restrictions regarding affinity. They would retain the Kôrapuzha restriction forbidding South Malabar Nayars to intermarry with North Malabar Nayar women. Most people say that the consent of the Kâranavan, and also of the father, is necessary to marriage whatever be the age of the parties. The father and Kâranavan would seldom disagree. 95 out of 100 are of opinion that the present freedom of divorce should continue. I have not ascertained the opinion of the women on this point. I have resided in Calicut for ten years. I believe that divorces are rare. So far as I have heard divorce is not resorted to without sufficient grounds. Adultery, gross disobedience are generally accepted as proper grounds. I have heard that polygamy is practised in rare instances. In cases where 1st wife is barren, a lunatic, subject to incurable disease, it is unobjectionable for the man to marry again. I have heard that polyandry is practised very rarely in parts of South Malabar bordering on Native Cochin and in Native Cochin; never in North Malabar. There is a unanimous desire for testamentary power over self-acquisitions. People would wish the father to be guardian during his life, and his wife's Kâranavan to be guardian after his death. This refers chiefly to North Malabar. In South Malabar opinion is divided. Some would wish the father and the Kâranavan to be joint guardians; some would wish the father to be guardian; some would have the Kâranavan to be guardian. A majority would not invest the wife and

children with a right to maintenance against the husband. The husband does now generally maintain the wife and children. If this practice were turned into a right it would give rise to litigation between husband and wife. There should be no suit for restitution of conjugal rights.

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Calicut,
9TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 90.

KOLAPURATHA VELÔTRÊ TÂMU PANIKKAR.

Age 41—Ūragam Mēlmuri Amsam,—Ernad Taluk.

Am Tarawâd Kâranavan. The tarawâd assessment is Rs. 80. My tenants pay about Rs. 1000 as assessment. I volunteered to lay my opinions before the Commission. If a marriage law is passed it should not be permissive, but compulsory. I think a compulsory law is necessary and that a majority of the people are in favour of it. In all classes there is a desire for testamentary power over self-acquisitions and all classes wish that a share of self-acquired property should go to widow and children in case of intestacy. Marriages and divorces should be registered, but I would suggest that the duty of registration should devolve on the Revenue Inspectors who are now responsible for keeping up birth and death registers. I object to the registration procedure proposed in the Bill. Intestate self-acquisitions ought to be divided equally, half to widow and children and half to brothers and sisters. Wife and children should have a claim against the husband and father for maintenance. If there were a difference of opinion between Kâranavan and father as to whether a child should go to school, the Kâranavan's will should prevail. In my locality most Nayar wives live with their husbands. In such cases the husband should be the sole guardian of his wife and children. I would make guardian either the Kâranavan or the father according as one or the other were the better qualified by wealth &c., to further the child's interests. In my part most Nayars live with one wife for life. I would restrict capricious divorce. I should consider misconduct, incurable disease and adultery to be reasonable grounds of divorce. By misconduct I mean habitual disobedience. In cases where relatives couldn't settle divorce disputes between husband and wife, I think the Courts should be invested with the necessary jurisdiction. I don't think respectable people would object to this. My amsam is 30 miles from Calicut. I wish to say that the Tâlikettu ceremony as now conducted is a useless and expensive ceremony, and that a change ought to be effected so as to make it the real marriage. I think the man who ties the tâli should be the real husband of the girl. The Tâlikettu according to usage should be performed before puberty. Neglect of this should entail forfeiture of caste by tradition. I have never seen an instance of this. As a fact the 'Sambandham' ceremony now often is performed before the girl reaches puberty. Most of the people I have spoken to consider that it would be a desirable reform that the tâlikettu should be postponed till after puberty. In most cases in my locality Anandaravans bring their wives to live in their tarawâd. As they work for the târawad the Kâranavan generally raises no objection. Quarrels between Kâranavan and Anandaravans have been on the increase for the last 15 years. Where the Nayars are very poor the wife lives with the husband and they both live by daily labour. Where the husbands are rich, they have their wives to live with them. Where the tarawâds are neither rich nor poor, the Anandaravans do not have their wives to live with them, but the wives stop in their own tarawâds. I sent in my application to be examined in the beginning of May last. I have one younger brother. His wife lives in my Tarawâd house. I had a separate house for my own wife. I would abolish 'Sambandham' and

'puda muri' as separate ceremonies and would have the husband tie the tâli and make the tâlikettu the real marriage ceremony. The tâlikettu is a religious ceremony.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
10TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 91.

KUNNATHA KÔRU NAYAR.

Cherupulashêri Amsam, Walluvanad Taluk.—Age 36.—2nd Grade pleader practising at Ponnani.

I have read Mr. Sankaran Nayar's Bill. In my opinion there is no objection to passing a permissive marriage law, but the Bill requires some modifications. A majority of the educated and well-to-do people at both Ponnani and Cherupulashêri are of this opinion. I should say 40 % of the Nayar population of the localities I am acquainted with are either educated or well-to-do. I have no idea what is the Nayar population of South Malabar. If a Tarawâd pays Rs. 50 or more, as assessment, in their own name or in the name of tenants, I should call it well-to-do. I have practised as a pleader ten years. Before that I was a Local Fund School Master in Cherupulashêri, Angadipuram, Alathur, and Chaughat. About 10 per cent of the two lakhs of male Nayars in Malabar I should suppose to be educated. I mean by 'educated' such as have studied English and can speak and write it. About the same percentage would prevail in Travancore and Cochin. In most well-to-do Nayar families there will be one or two educated men and their views have produced a desire for reform in the other members. Most of the educated men are Anandaravans, not Kâranavans. I have no personal knowledge of any case of polyandry during the last 20 years. By hearsay I have heard that it prevailed in portions of Walluvanad and Ponnani. I have heard of 8 or 10 cases. My latest information is that it has ceased to exist. I have heard of one or two cases of a woman having seven or eight husbands, one after another. I don't think on an average an ordinary Nayar woman changes her husband more than once. In about 60 per cent of women they stick to one man for life. I should say that in South Malabar the ordinary term for marriage is '*Kidakka-Kalyânam*.' '*Kidakka*' means 'bed.' The Kâranavans of both parties arrange the match; horoscopes are examined; the bridegroom and his friends go to the girl's house with betel leaf; there is a wedding feast; the betel leaf is distributed; and the bride and bridegroom then retire for the night. Every time a woman changes her Sambandhakâran, the ceremony will be repeated but not on so grand a scale as on the first occasion. When a union is dissolved, the husband sends a messenger to say that he has dissolved the union and he generally sends a present of cloth called '*Mâttukachcha*' or a small sum of money varying from 2 fanams to Rs. 4. If the woman dissolves the union there is no sort of formality. Sometimes the man's first intimation of it is that the woman is living with somebody else as his wife. It is generally the wife's Kâranavan who brings about the change. It is seldom that the woman terminates a union of her own pleasure. I have never heard of a woman divorcing her husband except with the consent of her Kâranavan. In rich Tarawâds, the union lasts for life in 4 cases out of 5. In well-to-do families the women live with their husbands in their husbands' houses for about ten months in the year. In other families the wives visit their husbands' houses, off and on, for about 2 months in the year. I should say 20 per cent of Anandaravans have self-acquired property in Walluvanad and Ponnani. They get property either from gifts made by their parents, or from cultivating Tarawâd lands for a fixed rent. There are most Nambudiri families in Walluvanad, Ernad and Ponnani Taluks. They are Janmis, and the majority of Nayars hold under them as tenants on Kânam or Verumpâtam. In South Malabar *Enançans* tie the Tâli in all divisions of Nayars except the *Chârnatha* divisions. It is very common here for Nambudiri junior members to consort with Nayar

girls. The number of Nambudiris is small and the number of Nayar girls who have consorted with a Nambudiri will not be 5 in 100. The union of a Nayar girl with a Nambudiri is only a casual one and will very seldom last for life. The Nambudiris do not observe the formalities which I have above described as attending "Kidakka-Kalyânam." The Nambudiri expresses his wish to the girl's Kâranavan and cohabits with the girl with his consent, without any further formality whatever. There are Ambalavâsis (temple Nayars) here with sub-divisions called Vâriyar, Pishârôdi, Mârâr, Podhuvâl, Nambîshan and Ambalavâsi Mûssads. There are also Brahmans called Mûssads. These Ambalavâsis generally intermarry in their own division. They may consort with Nayar women of lower divisions. When they do so, they go through the ordinary formalities of a Kidakka-Kalyânam as described by me. The two highest castes of Nayars, outside Ambalavâsis, are Kiriya and Sudra. In Ponnani I know of one instance of a Nayar gentleman having three wives. There are very few instances in which a Nayar marries more than one woman at a time. Fathers generally make a gift of self-acquired property to their children. They seldom give more than one half and often not more than one-fifth. The balance goes to the mother, sisters, and sister's children and brothers. The procedure is not so often by gift as by purchasing property in their name.

The desirable modifications in the Bill are :—

- (1) Omit the provisions regarding registration.
- (2) Do not force people to go to court for a divorce, but provide some easier form.
- (3) Half of self-acquired property in case of intestacy should go to wife and children, and half to Tâvazhi *i. e.* to mother, brothers and sisters and in their default to Tarawâd.
- (4) Customary restrictions as to consanguinity should be retained. There is no objection to a man marrying into his deceased wife's Tarawâd. Nayars do not generally do so, but the law ought not to render such marriages void if they take place.
- (5) I would either retain caste restrictions on marriage or would provide that the parties to a marriage which violates caste rule should lose their rights in their respective Tarawâds. I am in favour of the father being constituted guardian of his wife and children. My opinion is that no one will marry under the Act unless he has the means to support his wife and children. I should wish the father's right of guardianship to vest in him only when he has self-acquired property. There is a general wish that testamentary power over self-acquisitions should be accorded. I should wish the existing form of marriage to be legalized.

I have heard that in Palghat Taluk formerly there used to be an announcement that the man and woman took each other for six months certain. There is no such thing now. At the 4th day of Tâlikettu the brides are made to serve meals to their respective Manavâlans. After the Manavâlan has eaten part, the bride pretends to eat the remainder. Each party then takes hold of the end of a cloth (Kachcha), and the Manavâlan cuts it in two, as a symbol that he dissolves the connection. This is practised in Walluvanad and Ponnani. I can't answer for the usage elsewhere. Polyandry, that is a plurality of husbands where the woman arranges for their connubial intercourse with her with the knowledge and consent of them all, prevails in Native Cochin and is I believe, not unknown in those parts of Palghat, Ponnani and Walluvanad, which border on Cochin. As a matrimonial tribunal I would suggest a caste panchâyat. The grounds of divorce should be stated in the Act. They should be :— (1) Unchastity, (2) Insubordination, (3) Incurable disease, (4) Leprosy, (5) Mutual Agreement. I think the panchâyat should be nominated by the parties without reference to a court of justice. I would altogether stop polygamy. If the Bill be passed in its present form I do not think 5 per cent of even the educated would marry under it. Personally I would not do so, and I do not know any one who would, amongst my acquaintances. The petition now shown me dated July 1890 signed by 164 inhabitants of the Ponnani Taluk was got up

by me. I have signed it and I got signatures to it. There was a meeting in the Vakeel's room at Ponnani of about 30 of the signatories. All the 164 persons who signed the petition did so in my Vakeel's room in my presence. Two copies of the petition were circulated and 98 signatures were obtained. This was after the Hon. Mr. Sankaran Nayar had asked leave to introduce his Bill. All the persons who signed the petition are men of some position.

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Shoranore, }
12TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 92.

VARIKAMANJÉRI IRAVI NAMBUDIRIPÂD.

Age 67—Panamanna Amsam, Walluvanad Taluk.

Am a big landlord. Have about Rs. 3,000 assessment in my own name, and about Rs. 7,000 or more in my tenants' names. I have not studied the Sanskrit language. I have written my answers to the interrogatories and kept them at home. I will send them on my return. There is a ceremony called *tâli-kettu* amongst Nayars. It has existed since the time of Sri Parasu Râma. I have never heard of any book of which he is supposed to have been the author. I have not heard of any treatise describing the *tâlikettu* ceremony either in Sanskrit or Malayâlam. The customs of Nayar, I have heard, are founded on the Védâs; but I have no personal knowledge that such is the case. I don't know of any granthams relating to Sudra usages. Sri Parasu Râma is believed to be an incarnation of Vishnu. After him, for Malabar Hindus, Sankarâchâriyar is the greatest recognized religious teacher. I have heard of a book called the "sixty four âchâram" said to be by Sankarâchâriyar. I have never read it. I am not aware whether there is a grantham called "Kêrala Mahâtmyam". I have seen a grantham called Kêralôlpathi and have read a line or two of it. I am not in a position to explain the Slokâs quoted by the Zamorin. The Zamorin probably referred to me because I am a friend of his and he thought I could collect the information. I have a great number of Nayars who call themselves my "adiyâns" (slaves). They only obey me as a landlord is generally obeyed. I don't know whether there is any connexion between religion and succession to property. With us Nambudiris the son performs the father's funeral ceremonies, but the father's self-acquisition goes to his elder brother or elder brother's son as the head of the illam. I don't think it is proper that the Nayars should be changed from Maramakkathâyam into Makkathâyam. That I understand is what is intended. (NOTE—It was here explained to the witness that such was not the intention of the proposed Act and that the intention was simply to provide a permissive form of marriage). No marriage law will work in Malabar, however much you punish. Amongst respectable Nayars I should say that the parties to a Sambandham consider themselves bound to conjugal fidelity while the union lasts. Amongst the poorer classes the practice may be lax. In many cases the union lasts for life. I think in the majority of unions this is the case amongst respectable classes. The respectable people are in a minority. By respectable men, I mean, men who respect truth. Amongst Nambudiris, the Nambudiri women do not generally have their 'tâli-kettu' performed until after puberty. If the Sudras chose to follow the example of the Nambudiris in this respect, I should not say that any *dôsham* (harm or penalty) would accrue to them. A few Sudras here and there now do not perform the 'tâli-kettu' until after the girl reaches puberty. Such cases, however, are not numerous.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore, }
12th June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 93.

OLAPANNAMANA NARAYANAN NAMBUDIRIPÂD.

Age 54.—Vallinazhi Amsam.—Walluvanad Taluk.

Our illam has extensive estates, but I can't tell the amount of assessment. My Kâranavan sent me here to represent our illam. I have heard what the last witness has said. In my opinion the Sudra tâlikettu is not a purifying ceremony, but is a real marriage. If a Nayar girl dies before tâlikettu the death pollution is only the same as birth pollution. After tâlikettu if the girl dies, the pollution to her family is a real death pollution. Amongst Nambudiris the tâli is tied on by the bride's father. Amongst Sudras it is the tying of the tâli which makes the relation of husband and wife. I don't know what to make of the practice of the mother sometimes tying the tâli. We have often wondered at this practice, and questioned its propriety. I have studied the Sâstrâs. I have a copy of the Kêrala Mahâtmyam. I have not read it carefully. Amongst Nambudiris youths have to undergo a ceremony called Samâvarthanam. That is to be performed at time of marriage. If it was not performed the Nambudiri would be out-casted, and it is an essential preliminary to the marriage. The suggestion that the *Tâlikettu* in case of a Nayar girl is analogous to Samâvarthanam in the case of a Brahman boy seems to be reasonable. If the Sudras copied the Nambudiris, and postponed the tâlikettu until after the girl attained puberty, there is no *dôsham* which would result from it. The Nayar girl would not in such case be turned out of caste. I think the Ūrâlans of a temple are the authority in each case to decide whether any person should be forbidden to enter the temple. I don't think that inter-marriages between subdivisions of Sudras who do not usually intermarry would entail the penalty of exclusion from the temples. In the Cochin Rajah's Kovilagam the ceremony equivalent to tâlikettu is called *Vêli*. In the Zamorin's palace it is called *tâlikettu*. The Cochin royal family is a Kshatriya family. In the *Vêli* which they celebrate, there is *Pânigrahanam* and *Saptapadi* and a Nambudiri accepts the bride's hand. The *Vêli* is performed with all the Vedic rites except that wife does not change *gôtram*, and there is no pollution to the survivor in case of death of husband or wife. In the Zamorin's Kovilagams the *tâlikettu* is the only ceremony constituting marriage. Sambandham in his Kovilagams is attended by no sort of formality. There is no ostentation or publicity. In the Zamorin's Kovilagams it is a member of the Kodungalur (Cranganore) Rajah's family who should tie the tâli. One man may tie the *tâli* on several sisters. It gives no right to cohabit. As he is a Rajah the Tamburâtis can consort with Nambudiris only. I don't know the practice in other Kovilagams except Kadathanâd where the practice is the same as in the Zamorin's Kovilagam. Kottayam Kovilagam is a Kshatriya Kovilagam and its practice is the same as Cochin Kovilagam. The Nambudiri may be put away at the pleasure of the Tamburâtti. That I see is the practice, though there is no law to justify it. The Zamorin's family has no equal caste, with which they usually intermarry. There are some higher caste families such as the Cranganore family with which the Zamorin's family might intermarry. When a Tamburân (male member of a Kovilagam) consorts with a Nayar woman there may, or may not, be some formalities. There is no rule. In my locality (Walluvanad) there is no formality observed when a Nambudiri consorts with a Nayar girl. The girl's Kâranavan's consent is generally obtained; how else could the Nambudiri find access to the girl? Sometimes the Kâranavan is not informed till afterwards. They don't call each other husband and wife. (*Last witness here interrupts and says the opposite.*) The cohabitation of Nambudiris with Sudras is not according to ancient pramânams. It is only for sexual enjoyment. Some Nambudiris give a part of their self-acquired property to their Nayar consort and her children. In a few cases Nambudiris bring their Nayar consorts into their illam (house); but this is regarded as a very objectionable practice. They will never associate with the Nambudiri Antarjanams (women). The Antarjanam sometimes

speaks to them, and asks them to do some work. I believe, and many people say, that there ought to be no departure from existing usage as to marriage.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore,
12TH JUNE 1891.

}

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 94.

PATHAYINGAL KOVILAGATHA NEDUNGÂTIRIPÂD.

Age 81.—Kâranavan of Tarawâd—Tarawâd lands pay Rs. 50 or 60.

I am the Ūrâlan of the Cherupulashêri Dévaswam. Valapozha is my Amsam. Walluvanad Taluk. I received the questions but have not sent in my replies. It is difficult to believe that any good can arise from altering the existing customs as to marriage. People are divided in opinion as to the Bill. Most of them think it will be hard to work. The objection is that the nephews may be left without any protector while the Kâranavan is looking after his wife and children. I see no objection to legalizing the existing form of marriage, and giving a share of self-acquired property to wife and children. I think one-fourth of self-acquisitions should go to wife and children in case of intestacy. A majority of the married Nayar women remain in their own Tarawâds after marriage. There are some instances of arbitrary divorce in my locality, but not many. Adultery is the usual ground of divorce. The woman sometimes terminates the Sambandham. The cause alleged is that the husband does not give her property enough. Kâranavans don't interfere. The parties are left to do as they please. The people ought to be made to like a law which makes adultery by husband, or by wife, the only ground of divorce. In most cases the Sambandham lasts for life. I don't know any instance of a woman having had during her life-time more than 2 or 3 husbands, one after another. I don't know of any case of polyandry in my vicinity. I hear that it survives in two or four Tarawâds. The men in such cases don't like it, but they submit from affection to the woman. Nambudiri Anandaravans do occasionally persuade the wives of their tenants to accept them as husbands. I only know of 2 or 4 such cases. In such cases the Nayar husband is put away. I know of no instance in which a woman has two husbands at the same time. Where a husband has self-acquisitions and his wife lives with him, he ought to be the guardian of his wife and children. Where the husband has no separate property, and where the wife lives in her Tarawâd, the Kâranavan ought to be the guardian.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore,
12TH JUNE 1891.

}

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 95.

KAIRÂTTA ÎCHARA MENON.

Age 54.—Kadambazhipuram Amsam, Walluvanad Taluk.

Am Tarawâd Kâranavan. Tarawâd pays Rs. 700. Have about 40 tenants with puttahs in their own names. About 30 of them are Nayars. There would be about 200 Nayar Tarawâds in the Amsam. Mine has the most extensive property. I have sent in my answers to the interrogatories. I am in favour of a permissive marriage law. I think one is necessary. I think the children should get a share of their father's self-acquisitions. Capricious

divorce ought to be checked. This is the opinion of most of my respectable neighbours with whom I have spoken in my amsam and the surrounding amsams. There are very few Nayar Tarawâds in my locality that are well-to-do. Some Anandaravans take land on rent and can thus earn something for themselves. They rent lands from Janmis and others, outside their own Tarawâds. If the husband can maintain his wife, he generally brings her to live with him. Such cases in my locality are few. All wives will live with their husbands for 2 or 3 months in the year, for the rest of the year most of them live in their own Tarawâd. About 50 Tarawâds in my locality perhaps have Anandaravans who earn something for themselves by trade in paddy, and money lending. Most of them desire to provide for their wives and children. This tendency has been growing for the last 20 years. It is difficult for me to offer an explanation as to how this tendency originated. When the wife and children live with the husband, the husband is the *de facto* guardian. When the wives and children live in their own Tarawâds, the Kâranavan supplies them with food. When the father can meet the expenses of educating his children, he generally does so. Where the father has no means, the Kâranavan educates the children. Where the father has no property, the Kâranavan is the fitter guardian, if he has property. If the Kâranavan has no sufficient Tarawâd property, I think the responsibility of maintaining children should be put on the father. The custom of the locality is that the Kâranavan must support all the members of his Tarawâd even if there is no Tarawâd property. Even if the father had property, the Kâranavan would be blamed if he neglected to supply all the members of his Tarawâd with necessaries. If a Kâranavan said to his Anandaravans, "I have no Tarawâd property. I can't support you as I have a wife and children to support. You must work and maintain yourself," his conduct would be socially viewed with disfavour. I think $\frac{2}{5}$ of intestate self-acquisitions should go to wife and children. I can't give any particular reason for fixing on that fraction. I know ten or twelve Nayar women in my amsam who have changed their Sambandhakârans five or six times. Divorces are not very frequent. I can remember fully fifty instances in my amsam. It is generally the husband who puts away the wife. It is very rare that the wife puts away the husband. I don't personally know of any instance of polyandry. I have heard of the practice in many places. By polyandry, I mean, a woman publicly having more than one Sambandhakâran at the same time. I have never heard of a woman having more than two at a time. I presume both the Sambandhakârans are parties to the arrangement. I would stop polyandry, and regulate divorce. Husbands now sometimes put away their wives simply because they take a fancy to another woman. I think divorce should not be allowed except for (1) adultery, (2) habitual disobedience, (3) incurable disease, such as leprosy. Respectable people now only divorce on these grounds. I would not adopt the Bill as it is. I would omit the provisions as to registration. We can't go to court for a divorce; some other method should be devised. I can offer no suggestion. These are the principal objections that occur to me. The form of marriage prevailing here is called 'Sambandham' or 'Kidakkura.' *Kidakkura* is a term used in Walluvanad Taluk. In Palghat the ceremony is sometimes accompanied with a declaration that the union is to last for six months. I understand that this declaration is now rare, though formerly it was in frequent use. The declaration does not necessarily mean that the union *must* terminate in six months. It is a mere form. I would retain all customary restrictions as to caste, consanguinity and affinity. Cases of polygamy are very rare. It is improper and I would stop it. The union of a Nayar man and woman by 'Sambandham' or 'Kidakkura' generally lasts for life.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore,

13th June 1891.

}

H. M. WINTERBOTHAM.

Collector and Commissioner

Witness No. 96.

PANANGÂT NARAYANA MENON *alias* NANU MENON.*Age 44.—Cherupulashêri Amsam, Walluvanad.—Anandaravan managing Tarawâd.*

My Kâranavan is the Tahsildar of Ernad. My tarawâd pays over Rs. 600 assessment. Lands are mostly held on Kânan. Am a member of the District Board. I have sent in my answers to the questions. In my opinion the proposed marriage legislation should either be compulsory or should not take place at all. If the Bill is permissive there will be dissensions in families. Some will marry under the new law, some will not. They will quarrel together as to which is properly married. It may happen that there is only one adult male as Kâranavan. If he gives all to his wife and children, his nieces and nephews will have to starve. If the law of guardianship is altered Kâranavans who marry under the Act will lose interest in their tarawâds and the tarawâds will become extinct as tarawâds. I have known of many instances, going back for 50 years, in which fathers have made proper provision for their wives and children. What then is the advantage of a permissive law? If a law is passed at all it ought to affect all classes equally. We may divide the persons interested in the Bill into *three* classes:—

1st Class.—Nambudiris, Rajahs, Sthânis wholly object to change.

2nd Class.—The respectable class of tarawâds, including public officials and English educated classes. This class I would subdivide into two. One subdivision is the public officials, English educated people and those who imitate them. They have their wives and children to live with them and think it unnecessary to look after their tarawâds and think that is proper. The other subdivision follows the Rajahs and Sthânis (chief men) and conservatives who object to change. They say “we can now give away our self-acquired property to our wives and children, and no law is required.”

3rd Class.—The poorer classes are as a whole opposed to the law, because they think that the whole responsibility of supporting their wives and children (from which they are now free) will fall upon them. It is seldom that the poorer Nayars have their wives living with them.

Where a man has not many members in his tarawâd, he will have his wife to live with him. Some people think that the new law will create difficulties with reference to the observance of the rules of pollution (*pula*). It may make it difficult to perform funeral ceremonies, because perhaps the wives will not be able to visit their tarawâds on the death of a tarawâd relative. According to custom the women of the tarawâd should be present at the tarawâd in case of a death. I do not go so far as to say that the attendance of the women is then indispensable. The women should take part in the 15 days *pula*, under the guidance of the Athikurissi who officiates on the occasion. The poorer classes of Kânamdars and tenants, who hold under Rajahs, Nambudiris, and Temples will be afraid of their land-lords and from this fear will be deterred from following the new law. Anandaravans who have been educated by their Kâranavans, and who by means of that education are rolling in wealth, may say, “It is the Government Order. There is no obligation to support brothers and sisters, uncles and aunts” Thus near relatives in the tarawâd may be left to starve by an Anandaravan educated from tarawâd funds. The new law will create litigation and ruin tarawâds. Kâranavans who marry under the Act, will cease to educate their Anandaravans. At least this is what Kâranavans will apprehend. Personally I am not altogether opposed to legislation. It will not hurt me. However I think that all that is needed is testamentary power over self-acquisitions. I only beg that all the difficulties may be fully considered, and that if any legislation be resolved on, it may be made compulsory. I have heard that polyandry pre-

ailed once. I don't know of any instance now. My tarawâd falls under the 2nd class above described, holding lands under the big Nambudiri land-lords.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore, }
13TH JUNE 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 97.

KOLATHÛR KÊLUNHI VARIYAR.

Age 53—I am an Anandaravan in my tarawâd—Kolathûr Amsam—Walluvanad Taluk.

My tarawâd pays Rs. 3000 assessment direct. We have about 400 tenants, most of whom have puttahs. I think about 200 of the tenants are Nayars. I am Adhigari of the amsam. The population of Kolathûr amsam is 4,000 and odd. There may be 200 tarawâds of Nayars in the amsam. My Kâranavan has sent in his answers to the interrogatories. Those are his answers now shown me (No. 258). My own opinion is that there is no objection to passing a permissive marriage law. In Kolathûr amsam some favour and some oppose the Bill. I think 50 % would be in favour of legislation. There are no educated people in Kolathûr. They would not like the Bill as it stands. I have spoken to only ten or twenty persons about the Bill. From information given by them I guess that the number in favour of the Bill may be 50 %. The necessary modifications are:—

- (1) Omit provisions as to registration.
- (2) There must be no resort to Court for a divorce.
- (3) Not more than half of intestate self-acquisitions should go to wife and children.
- (4) The other half should go to the man's own Tâvazhi, not to the Tarawâd Kâranavan.
- (5) Father should only be guardian if his wife and children live with him.
- (6) Caste and customary restrictions ought not to be violated.

I have heard of instances of polyandry in my amsam ten years ago. I have not heard of any instances recently. I don't know of any instance in my amsam of a Nayar woman having changed her Sambandham more than twice. Divorces are few. I can remember 8 or 10 cases of divorce. One or two only have been arbitrary. The reasonable grounds of divorce are:—(1) adultery on either side, (2) habitual disobedience of wife, (3) scolding the husband, (4) misappropriating the husband's property. Matrimonial causes should be decided by a caste panchâyat. Persons qualified to serve should be nominated in each amsam. It would be unnecessary to pay them. To the best of my knowledge the majority of Nayar unions last for life. I don't altogether agree with my Kâranavan's views. I did not tell him that I meant to express views differing from his. My Kâranavan is 59 and is my direct elder brother. It was at his request that I came. I think testamentary power over self-acquisitions should be granted.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore, }
13TH JUNE 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 98.

PÂRAKKÂT' UNNISHNAN ELAYA NAYAR.

Age 45—Kuruvambalam Amsam—Walluvanad Taluk.

My elder brother is my Kâranavan. Our tarawâd pays about Rs. 2,000 assessment. We have also about 400 tenants who have separate puttahs. I have not sent replies to the interrogatories. My Kâranavan has done so. Those are his answers now shown me (No. 265). Personally I see no objection to passing a permissive marriage law for Nayars. There may be 100 tarawâds of Nayars in my amsam. 75 per cent. are opposed to the proposed law. The population of the amsam is between 3,000 and 4,000. Those who favour legislation object to registration of marriage. They object to having to go to Court for a divorce. Caste and customary restrictions ought to be retained. Half of intestate self-acquisitions ought to go to wife and children; half to tarawâd, and not to the tâvazhi. Father should only be guardian of wife and children when they live with him. Nayars who can afford it keep their wives with them in their houses. In a majority of cases the wife does not leave her tarawâd house. Testamentary power over self-acquisitions should be granted. I would retain the restriction making it compulsory on the testator to provide for his wife and children. I have heard of rare cases of polyandry in my amsam. I can't say that it has ceased to be practised, but it is rare. In most cases the Sambandham lasts for life. I know of about ten or twelve cases of divorce during my lifetime in my amsam amongst Nayars. It would be good to have a law to stop capricious divorce. A caste panchâyat should be the tribunal to decide divorce cases. I mean what I have said *viz* that in my amsam all Nayars who have formed Sambandham have kept their wives for life except in ten or twelve cases so far as I know.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore, }
13TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 99.

KARUMATHIL ACHUDA MENON.

Age 35.—Chékôd Amsam, Ponnani—1st Grade Pleader practising at Palghat.

My tarawâd pays Rs. 150 assessment. My elder brother is the Kâranavan. I have sent in my answers to the interrogatories. I think a permissive marriage law is highly desirable. I should like to see some modifications in the Bill, but I would accept the Bill as it is rather than have no reform. The modifications I desire are as follows:—

- (1) I should wish the law to sanction divorce by mutual agreement.
- (2) I think in cases of intestacy half the self-acquisitions should go to wife and children. The other half should be divided in equal shares between the tarawâd and the tâvazhi.
- (3) I would restrict the right of the wife and children to claim maintenance from the husband to those cases where she lives out of the tarawâd house with or without her husband's consent.
- (4) As a matrimonial tribunal I would suggest a panchâyat of castemen. The Government might order it to be presided over by a Judge if they thought fit; or the suit might be filed in Court and might be referred to arbitrators by consent of parties or at the discretion of the court.

(5) As to registration, I would have a formal declaration executed at the time of marriage, and the subsequent registration of this should be compulsory. The declaration should be signed by bride and bridegroom and by their guardians and witnesses. The declaration should be to the effect that the parties elect to marry under the Act.

(6) The husband should be the guardian of wife and children in all cases.

In South Malabar the wives generally dwell after marriage in their own tarawâd, unless the husband is an official, a Vakeel, or an English educated person having means to maintain the wife. While the wife lives in her tarawâd the Kâranavan supplies absolutely nothing but food. The Kâranavan in Palghat generally accumulates the tarawâd income for his own wife and children. In Ponnani he will generally only give a portion to his wife and children. In Palghat he generally tries to give the whole. Often at the time of marriage the husband is an impecunious Anandaravan. He lives the major portion of the year with his wife in her house and is maintained there. He creates discord in the wife's family, by criticising the conduct of the Kâranavan. Litigation will then ensue, and the wife's tâvazhi property will be dissipated or they incur debts. When he becomes Kâranavan of his tarawâd, in his turn, he tries to make things straight by giving tarawâd property to his wife and children. I could mention many instances of this. This is specially conspicuous in Elappalli, Kâvalpâd, Chittalanjêri, Agathêtara. There may be between 200 and 300 tarawâds in an amsam on an average. Out of 30 or 40 respectable tarawâds in Agathêtara, more than ten have been injured in this way. The general practice in Palghat Taluk in many of the respectable tarawâds, is for the Nayar husband to live in his wife's house. He is fed there. I have been practising at Palghat since the establishment of the Sub-Court here in 1884. I have personally been engaged in not less than 20 suits between Kâranavans and Anandaravans of the sort above described. The Kâranavans are powerless to forbid the women to have their husbands in the house, because if they did forbid it the women would worry the Kâranavan with suits for maintenance. At present there is nothing to restrict capricious divorce. The ordinary form of union here is called Kidakkura. The union is intended to last for life and often does so. I should say 60 or 70 per cent. of the 'Kidakkura' unions last for life. Arbitrary divorce is not very common, but there are many cases. I could mention 70 or 80 instances. Most of them are the result of mere whim. If the woman can find a better match she changes her husband. Generally it is the wife's mother who brings about divorces of this sort. Social opinion is no check on this, though such conduct is disapproved. If the second husband is a rich man the wife's status is improved and she is in no way looked down upon. As the Nayar marriage is in no way a religious matter, and is only a contract, I should like to see it dissoluble like other contracts by mutual consent. (1) Adultery on the part of the wife, (2) Misconduct on the part of either, (3) Intemperance on the part of the husband (the women are rarely addicted to drink), (4) Lunacy, (5) Loss of caste, are reckoned as reasonable grounds of divorce. I have known of instances of a Nayar woman having changed husbands six or seven times. It is not the custom for the Palghat Nayars to have more than one wife at a time. I know of rare instances in which a Palghat Nayar has two wives. In such instances no ceremony is performed at the union with the second woman, and she is merely regarded by the husband's tarawâd as a concubine. She would not be allowed to come to the husband's tarawâd for any ceremony. After 'Kidakkura' the wife is always brought to the husband's house for a visit, and it is then that the husband presents her with clothes. At the Kidakkura when the wedding guests are assembled, one of the bridegroom's party says to the mother-in-law in the hearing of all "Let the son of such a woman visit so and so (giving the name) for six months." To this the girl's mother replies. "Let him come and go as long as he lives." The idea is that the dêsam people of the bridegroom undertake that he will not dissolve the union for six months. Generally husbands are bound to supply their wives with clothing twice a year. I think the period of six months was probably fixed with reference to these half yearly periods. This declaration is always made when the 'Kidakkura' ceremony is gone through. There are many cases in which the man and woman cohabit without any ceremony, and the connexion ripens into marriage by the man acknowledging the woman as his wife. If the man acknowledges the

connexion by his conduct, the woman is considered to be his wife. No social stigma attaches to either the man or the woman in such cases. The formalities of Kidakkura are usually gone through in the case of most unions. The cases in which 'Kidakkura' is dispensed with would not exceed 2 or 3 in a hundred. In Ponnani the union of man and woman is called 'Sambandham.' So it is in Walluvanad, so far as my knowledge goes. I practised for four years as a pleader at Ottapalam in Walluvanad, and never heard the term 'Kidakkura' used there. I believe polyandry is extinct in Palghat. I have heard that it prevailed in Ponnani and Walluvanad some 40 years ago. I would retain caste restrictions, and restrictions as to consanguinity and affinity. In Palghat the Nayars try to arrange marriage so that the husband and wife may be of equal caste. It is common in Palghat Taluk for Pattar Brahmans to consort with Nayar women. I don't know whether they go through the Kidakkura ceremony. There is a general desire that power of testamentary disposition over self-acquisitions should be granted. I would restrict the power by declaring that the wife and children should get a specific fraction. The general opinion of the people is that there should be some reform in the direction of getting a marriage law. All Palghat Nayars would admit that a share of self-acquired property should be given to wife and children, and the general wish would be that the balance should be inherited by the tãvazhi, instead of by the tarawâd. Even amongst the lower classes such legislation as I have suggested is desired. I was one of the signatories to the petition now shown me (Current No. 53—Legislative Department.) A meeting was convened by me. About 100 Nayars attended, and it was resolved to submit a petition to Government. The petition was drafted and circulated for signatures. All the local Nayar officials took part in it. I produce a book in which the Proceedings of the Meeting are recorded. Nos. 1-2-5-6-8-23-24-27-28-30-31-32-33-34-35-36-38-39 and 40 are either respectable janmis or tenants of large farms. There is a general desire amongst the Nayars of Palghat that the members of a tarawâd should have a right to demand partition, where a majority of them wish it. I can't give the etymology of the word 'Kidakkura'.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat, }
15TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 100.

VALIA KÔNICAL EDAM PANGI ATCHAN.

Age 33.

I am one of the junior members of the Palghat Rajah's family. There are about 50 male members of the family senior to me. I desire to express my opinion on the proposed legislation. I think it is desirable, and I concur with the last witness as to the modifications which are necessary. I heard his evidence. I don't know what the Valia Rajah's opinion is. I know that he gives all his property to his wife and children and lives with them. I have discussed the matter with 5 or 6 members of my Tarawâd and they concur in my opinion. I have separate Tãvazhi estates which are under my direct management. I pay Rs. 200 and odd assessment and have 20 or 25 tenants. In ordinary Tarawâds the wives live with their husbands if the husbands can support them. The male members of the Palghat Rajah's family have their wives to live with them. In the majority of cases the Nayar wives live in their own Tarawâds and their husbands visit them there.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
15TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 101.

KONGÔT TÂPUNHI ELAYA NAYAR.

Age 68.

I am not the senior in my Tarawâd. We are 10 or 20 houses, all originally of one Tarawâd, and the eldest member gets the Sthânam (title). I am the eldest member of my branch. The family has 300 or 400 tenants. The assessment is all paid by the tenants. My branch has only 3 or 4 tenants. It was the Valia Nayar who sent in answers to the interrogatories. I have not heard anything about the proposed legislation before today. Our family could not accept any marriage legislation. I don't know what the people think about it. In our family Nambudiris consort with the females. The Nambudiris receive an allowance from our family for their necessities for visiting the Tarawâd. Sometimes the Nambudiris will give presents to their Nayar consorts. Sometimes they give property, but it is very rare. My Kâranavan the Valia Nayar asked me to attend here to represent him as he was sick. He did not tell me what I should say for him.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
15TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 102.

KIZHAKKUMPURATHA KANNANUNHI NAYAR.

Age 35.—Mundur Amsam. Palghat—2nd Grade Pleader practising at Palghat for 10 years in Munsiff's Court.

I heard the 99th witness Achuda Menon give his evidence. I agree in most that he said. I think however that the Nayars do not desire a right of partition of Tarawâd property. At present officials and Vakeels give part of their self-acquired property to their wives. Kâranavans in like manner give portions to their wives and children, but it is from the Tarawâd property. This *does* lead to dissension. There is dissension in nearly all the big Nayar families in Palghat Taluk from this cause. Anandaravans can sometimes earn property by taking lands on rent. When they do so they provide for their wives and children from what they earn. They usually give the whole to their wives and children. Personally I think a Nayar's self-acquisitions, if he die intestate, should be divided into three— $\frac{1}{3}$ to wife and children, $\frac{1}{3}$ to deceased's tarawâd, and $\frac{1}{3}$ to his own *tâvazhi*. Generally the Kâranavan is a distant relative, and to keep alive his interest in his Anandaravans, $\frac{1}{3}$ should be given to the tarawâd. One-third should be given to tâvazhi in recognition of the natural love to mother, brothers and sisters. I think the father should be the guardian of wife and children in all cases. It would be a great encouragement to him to work. Under the influence of the tarawâd system Anandaravans have no incentive to work and become lazy. Anandaravans except in towns, have no scope for employment except in agriculture. The majority of the Nayar tarawâds in Palghat Taluk are certainly poor, but they are better off than most of the Nayar tarawâds in the other taluks of South Malabar. The Nayars generally desire testamentary power over self-acquisitions. In my opinion the power should not be subject to any restriction. The fear lest the wife should desert the husband operates to prevent the husband from giving wives property *inter vivos*. It is generally the girl's mother who selects the husband, and she is chiefly influenced by the amount of property that the man has. I would wish the girl to exercise her own choice of a husband even if she were only 14 years old. The Kâranavan cares nothing for her; her mother thinks of nothing but money; and her father has no claim over her. As long as the mother lives the daughter's attachment to the tarawâd will

be strong. I think that all the Nayars should be allowed to intermarry as one caste. I should be glad to see the Bill recognize intermarriage between all divisions of Nayars. I would go so far as to abolish by law the prohibition of intermarriage between sub-divisions of Nayars. I am a Matriculate. Polygamy should be prohibited. There are now four Nayars reading in England. One of them is my brother. He is reading for the Civil Service in London. Two are reading for Medicine. One is reading for the Bar. Three are from Palghat and one is from Ponnani. I am paying for my brother's education in England. My tarawâd pays Rs. 350 as assessment, and the tenants pay Rs. 80 in addition. I manage the tarawâd affairs with the consent of my elder brother. When the Pattars here consort with Nayar women, they, most of them, have already Brahman wives of their own. They don't go through the ceremony of 'Kidakkura' when they consort with Nayar women. The derivation of 'Kidakkura' is I think, Kidakka+paraga. Paraga means to ask—to ask permission. Thus the phrase means to ask permission for cohabitation. In Palghat even if Anandaravans marry with their Kâranavan's consent it is not usual for the Kâranavan to support the Anandaravan's wife in his tarawâd, except in the case of well-to-do tarawâds. Anandaravan has a right to have his wife with him in the tarawâd house if he has the means to support her. He would do this irrespective of the Kâranavan's wishes. In almost all the tarawâds the Kâranavans and Anandaravans are fighting. The Anandaravans are not so submissive as they were formerly. Kâranavans call the Anandaravans impertinent and disobedient. In most tarawâds the number of members is quite beyond one man's management. If the Kâranavan's hands were strengthened the whole tarawâd would be ruined. Kâranavans always have their wives to live with them. In most cases, the Kâranavans are very old and infirm men.

Taken down by me in the presence of the Commission ; read over to the witness who understands English and admitted by him to be correct.

Palghat,
15TH JUNE 1891.

}

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 103.

KUNYANUNHI MANNUR MÛNNÂM NAYAR.

Age 44.

I have a separate Malikhana of 900 fanams a year. Nine persons altogether in my family receive Malikhana from Government. My amsam is Tadukkashêri, 12 miles West of Palghat. As far as I have enquired the majority of the Nayars in my locality desire a marriage law, on the lines indicated in my replies to the questions. I have spoken about the matter to about 15 people ; and about 10 of them were in favour of legislation. I knew nothing about the matter till I got the questions of the Commission. There are about 100 Nayar tarawâds in my amsam. I think divorce ought to be regulated. Barrenness, incurable disease, mutual disagreement are supposed to be reasonable grounds of divorce. But after divorce the woman must be maintained by the husband. Our tarawâd is now divided into five smaller tarawâds, each having no community of interest with the rest. The 5 tarawâds live in seven houses. The number of members would be about 40.

Taken down by me in the presence of the Commission ; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
15TH JUNE 1891.

}

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 104.

ELAYÄTTA ACHUDA MENON.

Age 49.—Pallamchâthanûr Amsam.—Palghat Taluk.

Am Anandaravan in my Tarawâd. Tarawâd assessment is about Rs. 3000. Our tarawâd is divided into three branch tarawâds, and I am the head of my branch. Each branch has separate property, and there is also joint tarawâd property. My branch assessment is about Rs. 1000. I took part in the meeting held at Palghat last year in which it was resolved to petition Government to give a Bill about marriage. I don't remember what was settled at the meeting, but I know I did not agree with the meeting. I think if we get a marriage law, the tarawâds will cease to prosper, as no property will lapse to the tarawâd. I don't know what my Nayar neighbours think. There are but few Nayar tarawâds in my locality. They are divided in opinion, and I don't know what the opinion of the majority is. The Kâranavans and Anandaravans in all the important tarawâds are in a state of hatred and dissension. The Kâranavan treats the joint property as if it was his own property. He will be the head of his own branch, and will have no affection for the members of other branches. He will want to benefit his own wife and children. It is usual for fathers to give some part of their self-acquisitions to their wife and children. I think testamentary power over self-acquisitions should be granted, and that that power would suffice. I would uphold existing law as to succession in case of intestacy. Brahmans and our own caste people consort with our women. I wish to say that Tâvazhi property should not lapse to the tarawâd. Tâvazhi property is property acquired by Anandaravans. They get property by trade in paddy, by cultivating tarawâd and other lands on lease. The females get property from their husbands. That is Tâvazhi property.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
15TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 105.

POLLÊKÂT KITTUNHI NAYAR.

Age 60.—Kottai Amsam. Palghat Taluk.

I am the Kâranavan of my Tarawâd. The tarawâd lands pay about Rs. 230. I have not had any interrogatories sent me. I find that people are divided in opinion as to marriage legislation. I have not discussed the matter with many people, and I can't say what the majority think. There may be about 300 houses of Nayars in Kottai. My tarawâd pays the most assessment of any in the Amsam. I don't think a marriage law would be objectionable. I have not studied the subject. There is dissension in every respectable tarawâd in my locality. When our Anandaravans grow up and form Sambandham they complain that the Kâranavan does not supply their wants. They refuse to work for the tarawâd. Some form Sambandham with, some against, the wish of the Kâranavan. Sometimes a tarawâd has five or six tâvazhis, and the Kâranavan will only feel affection for his own tâvazhi. Some Kâranavans dispose of the tarawâd property as if it were their own.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
15TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 106.

VADAVATTÈ TÂPPAN NAYAR.

Age 48.—Palatêri Amsam, Palghat—Tarawâd pays an assessment of Rs 100.

I pay about Rs 300 assessment in my own name. I am the Kâranavan. I have sent in my answers to the questions. I have no objection to a marriage law being passed. I have discussed the matter with many people in my amsam and in Palghat. Many people desire the law. Some who are uneducated object to it. A majority of the people are well-informed. There are about 300 tarawâds in my amsam. The Sthânis don't want the Bill. A majority of the middle class people wish for it. I think that partition of Tarawâd property should be obtainable if and when a majority of the members desire it. I believe a majority of the Nayers would agree with me. There is now no end to strife between the Kâranavan and the junior members. In case of intestacy I would give half of self-acquisitions to wife and children. The other half should be divided equally between the tarawâd and tâvazhi. Testamentary power over self-acquisitions should be granted and should be unrestricted. The father should be guardian of his wife and children. Even now it is the father in most cases who actually looks after them. He often does so even when they remain in the tarawâd house of the mother. I would not have the law render void intermarriages between any sub-divisions of Nayers. If a woman married a man in a lower Nayar division, she should lose the right to enter her tarawâd, but should have a claim to separate maintenance from her tarawâd. In Chaughat there are many instances of a Nayar woman marrying in a lower division. All I ask is that if intermarriages between Nayar sub-divisions now prohibited are hereafter contracted the law should not make them void. I would retain the restrictions on consanguinity. I would not prohibit marriage with a deceased wife's sister. In the Palghat Rajah's family this procedure is freely followed. Other Nayers do not generally marry in their deceased wife's tarawâd. The prohibited degrees amongst all Nayers are the wife's lineal female ancestors or descendants. I would restrict divorce. A caste panchâyat appointed by the Court should be the tribunal in divorce cases. The grounds of divorce should be adultery and habitual disobedience only. In case of barrenness or incurable disease a man should be allowed to marry a second wife, making proper provision for the maintenance of the first. I have 4 or 5 Anandaravans. Some means should be devised, if possible, to prevent the necessity of the bride and bridegroom appearing before a Registrar to register marriage. I was formerly the Kariastan of the Palghat Valia Rajah. He still occasionally consults me. I spend a good deal of my time at Palghat. I have a nephew who is a B. A., B. L., I don't know any instance of Nayar in Palghat who has two wives. There are many difficulties in the way of making provision for wife and children by gift *inter vivos*. The wife may die, or may desert the husband. I know an instance in which a man gave all his property to his wife; she died, and he was then not allowed by her relatives even to enter the tarawâd. I know of 4 or 5 instances in which wives who have received gifts of property from their husbands, afterwards deserted that husband for a wealthier man. Divorces by husbands are very common.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
15TH June 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 107.

KALAMKANDATHIL GOVINDA MENON.

Age 35.—Pêrur Amsam, Walluvanad Taluk.—2nd Grade Pleader practising at Temalapuram.

I hold a puttah for nearly Rs. 100 in my own name. I am an Anandaravan in my tarawâd, but I am the manager. The tarawâd assessment is about Rs. 30. I have sent in my answers to the interrogatories. I am in favour of a permissive marriage law. I wish for some modifications in the Bill. In case of intestacy I would give half of self-acquisitions to wife and children, and half to the tâvazhi, and not to the tarawâd. The father should be guardian of his wife and children. I desire testamentary power over self-acquisitions, and would not place it under any restriction. The man should be bound to maintain his wife and children. I approve of this obligation being imposed by the law. Either man or wife can now divorce at will. I would restrict the right of divorce. Adultery on the part of the wife, and habitual disobedience should be the only grounds on which divorce should be granted to the husband. Adultery and polygamy should be the grounds on which a wife should be granted divorce. Cruelty, and habitual neglect to provide necessaries are not sufficient reasons for a wife to demand divorce. There may be some cases of cruelty in which the law ought to allow divorce. Marriages should be registered, but the bride and bridegroom need not appear before a Registrar. A document might be drawn up at the time and place of marriage, and the husband or witnesses might get it registered afterwards. The present caste restrictions should not be ignored but should be upheld by the Act. The law can be hereafter modified if the Nayers desire that existing restrictions on intermarriage should be relaxed. I would retain the provision in the Bill limiting the prohibited degrees of consanguinity to the 5th degree. I do not think that a marriage beyond the 5th degree would be objected to. The custom is that a man shall not marry in his own tarawâd. I have practised for 12 years at Temalapuram. It is 14 miles South West of Palghat. There are no Nambudiri illams in the Palghat Taluk. The tâli-kettu ceremony is not a real marriage. It gives no right to cohabit. It is invariably performed. If neglected the girl would be considered an outcaste. I never heard of the performance of tâli-kettu being neglected in any case. It is part of the ceremony that the Manavâlan should tear a cloth on the 4th day in token that he dissolves the connexion. The term 'Sambandham' or 'Kidakkura' are used indiscriminately to denote marriage. I have attended eight or ten weddings in Pêrur and the neighbourhood, and at Temalapuram. I have never heard a friend of the bridegroom declare "Let so and so visit so and so (naming the girl) for 6 months" I have never heard that such a declaration is ever made at weddings. I have been discussing the Bill with my friends and neighbours for the last three months. I have discussed it with about 100 persons. The major portion of them were in favour of marriage legislation. There may be about 100 Nayar tarawâds in Pêrur, and about 50 in the Amsam where I now live. The majority of them are poor tarawâds. 20 % may be rich tarawâds. If a tarawâd has an income of 5000 paras of paddy (or Rs. 1500) I should class it as a rich tarawâd. In almost all tarawâds, rich and poor, the Kâranavans and Anandaravans are quarrelling together. I can vouch that this disagreement dates from at least 20 years back. It arises from the partiality shown by Kâranavans to their own tâvazhis. In some cases the Anandaravans misbehave. Kâranavans refuse them pocket-money (Mêlchilavu). Kâranavans misappropriate the tarawâd property, and alienate it, in favour of their wives and children. The Anandaravans misbehave, are disobedient and will not work. This state of things is common throughout all Malabar. I believe this evil is inseparable from the Marunakkathâyam system. I think that education, and the practice of Karanavans' bringing their wives and children to live with them in the Kâranavans' tarawâd may have had something to do with this. Attachment to wife and children is growing stronger amongst Nayers, both of rich and poor tarawâds. I would propose to give half of a man's self acquisitions to his tâvazhi out of fear of public opinion. As the system actually exists, we must do something for it. I did not attend Achuda Menon's (99th witness,) meeting last year, nor did I sign the petition to Government. I am not a member of the Kêrala Sabha. Tema-

lapuram where I practise, is in a corner of the District. In these parts Nayar women generally remain in their own tarawâds after marriage. I should say about 33% of Anandaravans get some self-acquired property, either by gifts from their fathers, by cultivating tarawâd and other lands, and occasionally by trade. There is a class of the Nayars who earn their living by daily labour, chiefly as agricultural labourers. In this class also the husband does not generally have his wife to live with him. In almost all cases a tarawâd will have some land held on Kânam or Verumpâttam. The average number of persons in a tarawâd will be 10 or 15. The largest number will be 100 or 120 members. Capricious divorces are numerous. Divorce suits I should wish to be determined by a panchâyat appointed by the Court. In my opinion, I should say that as a body the Nayars are not in a flourishing condition, but are degenerating. Formerly Anandaravans and Kâranavans cultivated their lands by their own joint labour. Now the Kâranavans have generally leased out their lands to yearly tenants. The practice has increased of the last ten years and is growing.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat, }
15TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 108.

CHŪVATHA KRISHNAN NAYAR.

Age 38.—Pâlathulli Amsam.—Palghat.

My Tarawâd pays Rs. 180 assessment. I am an Anandaravan. Am a first Grade Pleader, practising at Palghat. I have sent in my answers to the questions. I am in favour of the proposed legislation. I would modify the Bill in some respects. I would register a declaration to be made by the parties at the marriage, in place of making the bride appear before a Registrar. Personally I do not object to resort to Court for a divorce. I see no alternative. The people generally object to it. I should desire the law to recognize divorce by mutual agreement. In case of adultery I would allow divorce through a Court whether the adultery were by wife or husband. I would have cruelty by husband, and desertion for 2 years by either party, to be grounds for divorce. I would accept proviso (1) in question 40 as it stands. A majority of the people would not go with me. I agree to all the new rights proposed by the Bill. So far as I know the Nayars of Palghat would, most of them, wish to give all their self-acquisitions to their children. I have been practising for 14 years at Calicut and Palghat. I was the Secretary of the Kêrâla Sabha in Calicut. My connection with the Sabha ceased 5 years ago. I took no part in drawing up any Bill. I left the Sabha about the time that it became a political association. I agree with what last witness says as to the unsatisfactory way in which the Marumakkathâyam system is now working, and as to the dissensions generally prevailing in tarawâds. I think this state of things is general throughout South Malabar, but dissensions are specially ripe in Palghat Taluk. I was in Calicut for 12 years as a pleader. When I first knew it, the state of things in Calicut was not so bad as at the end of the 12 years. From the cases coming before me from Ponnani, Ernad and Walluvanad, I judged that dissensions were general in those taluks. 30 or 40 suits for maintenance by junior members against Kâranavans came before me during 11 years, and these form the basis of my opinion. I often visited Ponnani, Ernad and Walluvanad in criminal cases.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat, }
16TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 109.

KÂRÂT DÂMÔDARA MENON.

Age 34.—Elapulli Amsam.—Palghat Taluk.

Am Anandaravan in my Tarawâd. It pays over Rs. 100 as assessment. Am 1st Grade Pleader practising at Palghat since beginning of this year. Practised before at Calicut for two years. I have sent in my answers to the questions. I should object to resort to Court for a divorce. I would suggest that for the trial of divorce cases a caste Panchâyat should be appointed, two members by husband, two by wife and one by the Court, and the decision should go according to the majority. I have discussed this marriage question with a large number of persons in Palghat. Most of them would approve of marriage legislation on the lines which I have in my answers indicated. I think the grounds of divorce should be (1) adultery on part of either, (2) cruelty on part of husband, (3) continued disobedience on part of wife, (4) desertion by husband for one year, desertion by wife for three years, (5) continued absence, without either party hearing of the other, for 5 or 7 years.

I don't know what the opinion of the general society is as to the reasonable grounds of divorce. I would allow the husband to marry again, if the 1st wife were suffering from incurable disease. If the husband were suffering from incurable disease, the wife should have the right of divorce. I have heard that polyandry still exists in parts of Walluvanad. Certain parents in Walluvanad 3 or 4 years ago asserted to me that polyandry was customary. I know personally of no instance. In Palghat a woman rarely changes her husband more than once. When she attains middle age she will scarcely ever change husbands. Instances of women divorcing men are very few. There are a pretty large number of cases in which the men change Sambandham

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat, }
16th June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 110.

MARADHUR GOVINDA MENON.

Age 32.—Vadavanûr Amsam.—Palghat Taluk.

Am Anandaravan in my Tarawâd. My Tarawâd pays Rs. 80 and odd as assessment. 1st Grade Pleader practising at Palghat for seven years. I have sent in my answers to the questions. I am in favour of marriage legislation, with the modifications set forth in my answers. The law should place no impediment on intermarriage between subdivisions of Nayars. The law should recognize such intermarriages if they take place. The law should prohibit marriages between Nayars and others of different castes not being Brahmans or Kshatriyas. Adultery and habitual disobedience on part of the wife should be grounds of divorce. Cruelty on part of husband should be the wife's ground of divorce. I would appoint a caste panchâyat to try divorce cases. The Court should appoint. The Panchâyat should sit at the locality where the parties reside. The Panchâyat should not be bound by any rules of evidence. I would allow the parties to be represented by Pleaders. I think such a panchâyat would deal equal justice between husband and wife.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat, }
16TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. III.

NĒDHILLATHA GOPALA MENON.

Age 42.—Kizhakkétara Amsam.—Palghat Taluk.

Kâranavan in my Tarawâd. Tarawâd pays Rs. 800 odd. There will be 100 members in the Tarawâd. It is one of the largest tarawâds in the Amsam. I have sent in my answers to the questions. I am in favour of a permissive marriage law. I would stop polygamy. Most of the people in my amsam and in the Tara of Kollangôd favour the legislation. There are more than 100 Nayar houses in the Tara. I have discussed the subject with various people besides those in the Tara. I am only the Kâranavan of my branch. The tarawâd is divided into five tâvazhis. My tâvazhi pays Rs. 800. The whole tarawâd pays Rs. 2000, which is divided between the five tâvazhis. About 15 years ago my Kâranavan (since deceased) sued to recover all my tâvazhi property from my tâvazhi. He succeeded as to a part of the property. The view of the majority of the people is that a part of self-acquisitions ought to go to the tarawâd. They would wish more than one half to go to wife and children. The practice now is for the father to look after his children. The Kâranavan merely gives them food. The expenses of education and all else they require is supplied by the father. I would make the father the guardian. Such is the practice even where the wife lives in her own tarawâd. The Kâranavan has no affection except for his own wife and children. The women simply get their food from the Kâranavans, and look to their husbands for everything else. I would have the husband-father to be guardian of wife and children in all cases. In 75 % of tarawâds the wives live in their own tarawâds for the greater part of the year. They will live in their husband's houses for 3 or 4 months of the year. The remaining 25 % will live with their husbands. Almost all the big tarawâds have one or two Kalams (outlying farm-houses) where the Anandaravans live with their wives. At present there is no disagreement between me and my Tarawâd Kâranavan. My Kâranavan is now litigating with one of the tâvazhis. The tâvazhi is suing him for maintenance. My Kâranavan has paid my branch nothing for maintenance for 15 years. The present Kâranavan is seventy years old. I don't know what his opinion is about the Bill.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
16TH JUNE 1891.

}

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 112.

KUNNANKUMARATHA CHÂPUNHI MENON.

Age 59.—Panangûtiri Amsam.—Palghat Taluk.

I am the senior Anandaravan. Tarawâd pays over Rs. 800. I have not received any interrogatories. I manage the affairs of the Tarawâd with my Kâranavan's consent. He is my direct elder brother. There is only one tâvazhi in our tarawâd. In my Amsam the people desire a marriage law. My tarawâd is a Sthâni tarawâd, and only Brahmans can consort with the females. So we cannot accept the law. For the last 4 months I have been discussing the matter with my neighbours. Most of them think that the expensive tâli-kettu and the following Sambandham ceremony should be consolidated into one. I think the ceremony of marriage should only take place when the bride and bridegroom are really united. It is the custom to celebrate tâli-kettu before puberty. The belief is that if tâli-kettu were not performed before puberty the girl would be an outcaste. I wish

the law would reduce the tâli-kettu expenses. There is a general wish that the wife and children should inherit half of intestate self-acquisitions. Divorce ought to be regulated. The people, including the women, desire this. Adultery and aversion should be grounds of divorce if husband seeks it. Cruelty and neglect to maintain should be the grounds on which a wife may divorce. In case of dispute in divorce cases the Court must settle it. There are Nayars of equal caste with my family, but it has never been the custom for our women to accept any but Brahman consorts. The head of my tarawâd must have been a Dêsa-Vâzhi under the Zamorin. My Kâranavan received no notice to attend here. I don't know what his opinion is. He lives in a detached house belonging to us with his wife and children, a call's distance from the tarawâd house. The invitation was sent to me because it is I who am virtually attending to all business connected with the tarawâd. I desire testamentary power over self-acquisitions.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
16TH JUNE 1891 }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 113.

PANIKATH NARAYANAN MANADIYÂR.

Age 33.—Kizhakkêlara Amsam.—Anandaravan in Tarawâd.—Tarawâd pays Rs. 600 and odd.

I have not received any interrogatories. I manage the affairs of the Tarawâd under my Kâranavan. He is my mother's elder sister's son. So far as my knowledge goes the people have no objection to a permissive marriage law. Some are anxious for it. More than half desire it. In cases of intestacy the people would wish that a share of self-acquisitions should go to wife and children. One-third should go to wife and children, $\frac{1}{3}$ to his own tâvazhi, $\frac{1}{3}$ to his tarawâd. There ought to be a law to restrict capricious divorce. Adultery, habitual disobedience should be grounds on which the husband may divorce. I think the Court must decide divorce cases. Probably the people will dislike this. Perhaps arbitrators might be appointed to settle divorce cases. The arbitrators might be appointed by the Nâdu Vâzhis (local chieftains) or by the Court. The latter way would be the best. I have not seen my Kâranavan since receiving the notice. He was living in his wife's house six miles away. He is 33 years old. Nayars are now writing Wills, so they don't want a power which they have already got. I am a Nayar by caste.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
16TH JUNE 1891 }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 114.

VANIEMPARAMBATHA SHANGUNHI MENON.

Age 36.—Koduvayur Amsam, Palghat.—2nd Grade Pleader practising at Temalapuram.

Have practised there for 10 years. Before that I practised for two years at Tirur. I received no interrogatories. The people here desire a marriage law. Two meetings were held here last year, one presided over by Mr. Krishna Menon, late Sub-Judge, the other by Mr. Gopalan Nayar, Deputy Collector. I attended both. Both Meetings resolved that there

ought to be a marriage law. I was in favour of the resolutions. I don't remember the date of Meetings. At the 2nd meeting about 200 persons attended. I don't recollect what the resolutions were. I would give out of intestate self-acquisitions $\frac{1}{3}$ to wife and children, $\frac{1}{3}$ to tâvazhi and $\frac{1}{3}$ to tarawâd. The divorce tribunal should be a caste panchâyat. Adultery, habitual disobedience, incurable disease are the proper grounds of divorce. Father should be guardian. Testamentary power should be granted, subject to no restraint. Out of the persons who are named as having taken part in the proceedings of the second meeting 14 were officials and pleaders, 22 were non-officials.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat,
16TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 115.

KOTHÂNDATH MÂNJU MENON.

Age 57.—Padinyârâtara Amsam, Palghat—Kâranavan of Tarawâd.—Tarawâd pays no assessment.

I pay Rs. 300 on my own separate property. Rs. 60 is the assessment of my tâvazhi Rs. 240 is the assessment of my own self-acquired property. I have not received any interrogatories. There would be about 100 tarawâds in my amsam. Five or six pay more assessment than I do. I don't understand the details of the proposed marriage legislation. The form of marriage in my amsam is called 'Kidakkura'. At the time of the ceremony, a declaration is made by the senior male, or chief male, of the bridegroom's party to the senior female of the bride's tarawâd that the union should continue for six months. She answers 'so be it. Let him come'. I have attended many weddings. This declaration is invariably made. It is an old practice. The bridegroom is not tied down for six months. He may give up the girl when he likes. I never heard of a case of the senior woman replying 'let him come for ever'. I never heard of this being the form of reply anywhere in Palghat Taluk. The 'Kidakkura' ceremony is intended to unite the man and woman as husband and wife for life; but either party may terminate the union at pleasure. I should not object to have this 'Kidakkura' recognized by law as a legal marriage. The Nayars are divided in opinion. The persons who object to the Bill want to be able to act according to their own inclinations. I have not discussed the matter in my amsam, nor have I heard it made a subject of discussion there. The people would like a law which in case of intestacy would give a man's self-acquisitions to his widow and children. Some would like to give half only. They would give the other half to their own tâvazhi. They would give nothing to the tarawâd. Why should anything be given to the tarawâd? No one would have joy in giving a portion to the tarawâd. A man's love only extends to his wife and children, and to his own tâvazhi. The whole self-acquisitions should only be given to wife and children, if it is determined to change Marumakkathâyam into Makkathâyam. In the majority of cases the Nayar wives live with their husbands, in the husband's own house or in his tarawâd house. Usually the Anandaravans' wives only visit their husbands' houses. What I said above only refers to Kâranavans' wives. Anandaravans' wives will generally not visit their husbands' houses for more than one month in a year. If they are pregnant they stay for about two months. I can't explain the reason. There are not many cases in which Anandaravans have self-acquired property. There may be 2 or 4 such tarawâds in my amsam. They get property from their fathers, or their tâvazhi relations, or by their own exertions. They take lands for cultivation on lease. It won't fit in with the Marumakkathâyam system if the father is made guardian of the wife and children. He can't be guardian if Marumakkathâyam is retained. Testamentary power over self-acquisitions is desirable. I would retain the proposed restriction in favour of wife and child-

ren. The wife should have a right to claim maintenance from her husband, while the Sam-bandham lasts, from his self-acquired property only. The children should have a right of maintenance against the father. The wife should not at the same time have a right to claim maintenance from the tarawâd. If the wife lives in her own tarawâd the husband should provide everything but her food, *i. e.* cloths, oil, betel and anything that the children may require. I think the average annual expenditure of a husband on his wife, in my class of tarawâd, would be about Rs. 30 a year. Each child below 10 years of age would require about Rs. 5 in addition. There are children who would require Rs. 30 a year each. There would only be 5 or 6 tarawâds in my amsam in which the Amandaravans could give on this scale. In other tarawâds they can only give according to their means. In most cases the union of a man and woman lasts for life. About 25 % of marriages will be followed by a divorce. There are few cases in which the wife terminates the union. In most cases it is the husband who brings about the divorce. Divorce just depends on the will of the parties. They will not openly state what the reason is. Social opinion is no restraint on divorce. Respectable men would not divorce capriciously, but no one who wanted to divorce would listen to their opinion. Women do suffer from this state of things, because they cannot get other suitable husbands. There have been instances of capricious divorce in my amsam which have inflicted hardship on the woman. I can't say how many. A remedy to check capricious divorce is necessary. It is for Government to provide the way. I can't suggest the way. I would prohibit intermarriage between subcastes of Nayers where such prohibition is now in force by custom. The custom of prohibitory degrees as to affinity depends on whether there is *pula* (pollution) between the woman and the deceased wife. A man cannot marry a woman between whom and his deceased wife there was *pula* (observance of pollution on her death). There are not more than 2 or 4 instances in my amsam where a woman has had as many as 4 husbands in succession. Polyandry is unheard of in Palghat. I have never heard of it in Walluvanad, Ponnani or in the Cochin State. (Note—The meaning of polyandry is explained). I know of no instance of a Nayar having two wives at the same time. The 'Kidakkura' formalities are observed in full each time a man or a woman remarries. My experience is limited to my own neighbourhood. There are some Nayar women in my amsam who have Pattar consorts. There are one or two tarawâds who only take Pattars for their women. Pattars do not go through the form of 'Kidakkura', when they consort with a Nayar woman. There are some instances in my amsam where a Nayar man and woman cohabit without formality. Such cases are clandestine. If the man is of an equal or higher caste than a woman such connections involve no social penalty. If a woman became pregnant and the father could not be ascertained, she ought to be turned out of the tarawâd. If a man being of equal or higher caste acknowledged the paternity, there would be no further difficulty. Acknowledged cohabitation with a girl by a man of proper caste should be pronounced by law to have the same effect as a legal marriage. If paternity were proved to the satisfaction of all the caste, even if the man denied it, the law should proclaim him to be the legal husband of the girl. Dissensions in tarawâds are the rule and not the exception. This is so in my amsam. Ever since I can remember the Kâranavans have had their wives to live with them, unless the wife's tarawâd is very close by. I am not conscious of any change in the custom as to this. I have three daughters, one son, and three nephews and five nieces in my tâvazhi.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
17TH June 1891

}

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 116.

KAVISSÉRI VÍTTIL RAMUNHI NAYAR.

Age 63.—Tarur Amsam.—Palghat.

I am Kâranavan of my Tarawâd. It pays Rs. 500 and odd. I have not received any interrogatories. I have heard all that last witness (K. Mânju Menon) has said. I am in favour of a permissive marriage law. The people in my locality are divided in opinion. I have been sick and do not go out much. I can't say how the majority would vote. Well-informed people desire the proposed legislation; the others are apprehensive of change. I have only discussed the matter with such people as came to my house. Testamentary power over self-acquisitions is very desirable. I would have it unrestricted. In case of intestacy I would give half to wife and children. The other half should certainly go to the tâvazhi, and not to the tarawâd. The father should be the guardian of his children, and should be responsible for their education and for everything except the food, if they live with their Kâranavan. It is for the Government to decide how to make this fit in with the Marumakkathâyam system. If there are ten members in a tarawâd, perhaps one will work for the tarawâd: the other nine will learn how to bring suits, and their aim will be to get something out of the tarawâds. They and the Kâranavan fight together, and the result of this is that most of the tarawâds round Temalapuram and Palghat have been ruined. I should wish capricious divorce to be restricted. Adultery on either side should be made the ground of divorce. I can see no alternative except to decide divorce cases by the ordinary procedure in Court. Registration of marriage before the Sub-Registrar is objectionable. People would prefer that the Adhigari or some four chief men should be appointed to register in each amsam. I would keep the customary form of 'Kidakkura' and have the Registrar to be present at every marriage. Or a declaration might be made before the Pramânis that a 'Kidakkura' had been celebrated, and the Pramânis might forward the declaration to the Sub-Registrar for registration. Customary restriction as to caste, consanguinity and affinity should be retained. There is no polyandry in Palghat. I don't like to be questioned regarding polyandry. No one likes to be forced to say that it prevails anywhere. Respectable men do not form 'Kidakkura' with more than one woman at a time. I think polygamy should be prohibited. It is only within the last 15 or 20 years that the members of tarawâds have been fighting with their Kâranavans. The fashion was introduced from Tellicherry of Anandaravans bringing suits to remove Kâranavans. There were no suits to remove Kâranavans till within the last 20 years. Some suits by junior members against Kâranavans proved successful, and then other junior members were thus encouraged to bring suits. There are many schools now. The boys only receive imperfect education. This is another cause of dissensions in tarawâds here. The wives of the Kâranavans do not generally live with their husbands for more than 2 or 3 months at a time. Then they return to their own houses. The practice is just the same with the wives of the Anandaravans. The Kâranavans have no advantage over the junior members in this respect.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
17TH JUNE 1891. }

H M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 117.

KÂNÛR SHÊKHARAN NAYAR.

Age 62.—Chittalanjêri Amsam, Palghat.

My Tarawâd pays between Rs. 600 and 700 as assessment in 5 or 6 Amsams. My tarawâd is split into four branches. It is my branch which pays between Rs. 600 and 700. I should object to any change in old custom. If any change is affected it should be after consultation with all the castemen. I have not received the interrogatories. The people in my locality don't understand what are the details of the Bill, and so they don't know whether they are for it or against it. I should like to see the details of the Bill before I expressed my opinion.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
17TH JUNE 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 118.

MALAMEL NÂNU NAYAR.

Age 57.—Kâttushêri Amsam. Palghat Taluk.

My Tarawâd pays about Rs. 300 as assessment. I am Anandaravan managing Tarawâd. My Kâranavan is my uncle in another tâvazhi. I received no interrogatories. My Kâranavan knows I have come here. His age is 65. I have heard what the last three witnesses have said. I think the passing of a marriage law is desirable. I agree with 116th witness Ramunhi Nayar, except that I would only give $\frac{1}{4}$ of self-acquisitions to wife and children, $\frac{3}{4}$ should go to the tarawâd, and not to the tâvazhi. Father should be guardian. Testamentary power should be accorded over self-acquisitions. Divorce should only be allowed for adultery on part of wife. Mere adultery by the husband should not give the wife the right of divorce. I would have divorce cases decided by chief men appointed by the Court. Customary caste and other restrictions on marriage should be retained. The above represents my own opinion and the opinion of most of those whom I have consulted. I have consulted about 30 people. There are about 40 Nayar tarawâds in my amsam. Dissension is general amongst them. The cause is that the Kâranavans waste the tarawâd property. They think they can do what they like being Kâranavans. The bad feeling in tarawâds has come into existence within the last 20 years. I can't explain the reason. My Kâranavan and I live together. He knows what opinion I was going to give.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
17TH JUNE 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 119.

KOZHISHÊRI KARUNÂGARA MENON.

Age 28.—Neduva Amsam, Ernad Taluk.

Am a B. A. Sub-Editor of the "*Hindu*" Newspaper. I am the author of the pamphlet now shown me entitled "Observations on the Malabar Marriage Bill." I am of opinion

that there is no necessity for legislation on any basis. I have had opportunities of ascertaining the feelings of people on the subject from various parts of Malabar. The people (as far as I know) are against any legislative interference on the subject of marriage. Three or four or five officials have desired, and do desire, a marriage law; and a few English educated men support them. I have consulted 31 graduates and out of this number 24 were wholly opposed to legislation, and 7 approved of the principles but disagreed as to details. In these 24 graduates are included several High Court Vakeels, a distinguished Statutory Civilian and others holding responsible situations. The seven in favour of the Bill disagree with each other as to details. In Calicut there are a few officials in favour of legislation, and some pleaders. In Tellicherry there may be a few Tiyan gentlemen who approve of legislation; of Nayers I think there are hardly any who approve. At Palghat I hear the measure has a larger support. The men who support the measure are the educated, the officials and their adherents. Even in Palghat all the educated do not support the Bill. Nayers not educated in English are as a body opposed to legislation. A few officials amongst these not educated in English support the Bill through fear of officials. The impression is very general that certain native officials have been using their influence to secure support to the Bill. A District Munsiff, B. A. told me that he had been requested by a chief supporter of the Bill to secure signatures to a petition in support of the Bill. I think that was very wicked. He told me he refused to do so. I have formed no idea as to what percentage of the educated classes desire the proposed legislation. As far as I know no Nayar woman is in favour of a permissive marriage law. The Kêrala Sabha was started in 1880, and though I was not a member, I regularly attended its meetings for a year. I never heard anything said about a marriage Bill in that Sabha. The Sabha subsequently, in 1883 I think, presented an address to Sir M.E. Grant Duff, the Governor. No request was made in that address for marriage legislation. Nothing was heard of a marriage law until the Janmi and Tenant Commission sat at Calicut. The two Malayâli Members requested the two European gentlemen to draw up a marriage Bill. Sir Madhava Rao told me that he had nothing to do with the Bill and that he had no hand in it. It should not be supposed that Sir Madhava Rao as President of the Commission approved of the Bill. He published a letter in the Madras Papers of which I produce a copy.—

(Note—The following is the letter to which the witness refers appearing in an issue of the '*Hindu*'

Malabar Marriage Reform:—The custom in question has been in operation for thousands of years. Its roots are spread deep and wide on that coast. It is a natural and ancient growth. It involves life, manners, morals and the interests of liberty and property. Don't hastily tamper with it. Duly consult with your elders and especially with your females who are most interested in the matter. Far better would it be for individuals to arrange especially for their own happiness than to revolutionize the whole nation. The custom you are condemning and trying to upset has been useful in two important respects namely:—

First—It has preserved property and prevented its dispersion.

Secondly—It has ensured the peaceful operation of the great principle of natural selection.

Take care that your reform does not enable inferior men in other parts of India to carry off your fair women and leave you a nation of dry bachelors!

A NATIVE OBSERVER.)

Sir Madhava Rao himself told me that he wrote that letter. Some native gentlemen of Betatnâd told me that they regarded the proposed legislation with the same feelings that the Malayâlis regarded the invasion of Tipu. The general feeling is hostile to the Bill. The tâli-kettu is a marriage ceremony which does not create the relation of husband and wife. The tâli-kettu is the religious part of the marriage. The tâli-kettu is a religious ceremony. Apart from it there are certain social forms of marriage, Puda-muri, Vidâram-kairai, Ūzham porukkal, Sambandham, and Kidakkura. Those are the only five forms of

marriage I know of. Each of these forms has something religious element in it. I can only speak as to 'Sambandham' and 'Puda-muri'. In 'puda-muri' there is a lamp lighted, and the meaning is that the Goddess of Agni is invoked as witness. I do not know whether Agni is a God or Goddess. I consider that the examination of the horoscopes as to the agreement of the Stars is religious. The third religious element is the distribution of *dakshina* to Brahmans. In 'Sambandham' a lamp is lighted, and it has the same import as in 'puda-muri'. The other religious elements also exist. Also betel leaf is given by the bridegroom to the bride. The analogous ceremony among Brahmans is the 'Nischayatâmûlam,' when the girl is promised in marriage by her parents. If there is a proper Sambandhakâran available at the time of tâli-kettu, he ties the tâli and becomes the real husband. Consummation takes place without further formality. On the 4th day in such cases, the cloth-cutting, emblematic of divorce, is not performed. I am not sure as to this last point of my own knowledge. In my own case I was present at the tâlikettu of my wife, and might have tied the tâli myself if I had chosen. Consummation followed 2 years afterwards when my wife attained age without any further formality except fixing a Muhûrtham and distributing *dakshina*. I declined to tie the tâli and a Manavâlan tied it. I don't know whether he cut the cloth as a symbol of divorce. If tâli-kettu is a marriage, I must admit that it comes to an end by a divorce on the 4th day, by cutting the cloth. The Attâladakkam right carries with it the obligation to make the funeral offerings. I can mention no authority in support of this. Amongst Attâladakkam heirs those who perform funeral oblations in addition to pollution are by custom preferred as heirs to those who only observe pollution. A Kalari is a place of martial exercise, where religious worship is held by all the descendents of a common female ancestor. Every old and respectable tarawâd has one. If there be property attached to that Kalari, the senior male member of all the cognate tarawâds taken together, holds it. The system of succession as regards Kalari property is the same as in the case of other Marumakkathâyam property. This also shows that the Marumakkathâyam system has a religious basis. In the whole of South Malabar I only know of one case of polygamy. I would not punish a polygamist. I do not think that testamentary power over self-acquisitions need be granted. If granted, it should be carefully safeguarded so as not to lead to litigation. I would not give a man power to deal by Will with more than $\frac{1}{3}$ of his self-acquisitions; $\frac{2}{3}$ should devolve by law on his tarawâd. In case of intestacy the whole of self-acquisitions should lapse to the tarawâd. There is no necessity for any legislation. There should be no change in my opinion in the existing usage. If there is to be any legislation I am of opinion that it should not be permissive only. If the customary forms of marriage are legalized people would not object to it, but I would retain polygamy as it is sanctioned in Hindu law in deference to public opinion. As to divorce there should be no resort to a Court of justice. A notice from either side with a certain period of probation during which the kinsmen may bring about a compromise, is the only form which commends itself to me. As regards the right of maintenance I would take care to see that the wife does not claim maintenance from the tarawâd when her husband is actually maintaining her. The new law should interfere in no way with the right of succession. These remarks are made subject to my general assertion that the proposed legislation is unnecessary and is not desired by any section of the people. I have no objection to the practice of Nambudiris consorting with Nayar females, so long as they are unmarried in their own caste. I regard the Nambudiri as the husband of the woman, and I allege that in forming the union he observes the same formalities as when the husband is a Nayar. No respectable tarawâd would allow a married Pattar to consort with one of the girls. As to the custom of the Nambudiris, I can only speak to the practice in my own neighbourhood at Chêrnad. If amongst Nayars, a man and woman cohabit without going through the 'puda muri' ceremony or 'Sambandham' ceremony, I should call the woman a concubine. It is the formalities attending the 'puda muri' or 'Sambandham' ceremony which make a woman a wife instead of a concubine. Under certain circumstances I maintain that the Nayar wife has now a right to be maintained by the husband, while she lives with him. By 'right', I don't mean legal right. I deny that the right of capricious divorce exists. It is not tolerated, and ought not to be tolerated. In South Malabar Sam-

bandhams where cloths are not presented, betel leaf is presented by the bridegroom to the bride. As to Agni, I merely said Goddess by a slip of the tongue. Agni is of course masculine. In the 64 Âchârams, the 61st lays down that funeral ceremonies should be performed in honor of an uncle. The 62nd declares that the right of inheritance goes towards nephews. This will show that any law interfering with the right of inheritance will interfere with religion. I would also mention that when Nayars go on a pilgrimage, and perform the Shrâdha ceremony at Gaya, they perform that ceremony in honor of the ancestors of the tarawâd for 21 generations. In Tirunelli in Wynad, nephews alone are entitled to perform Shrâdha ceremony. Every body knows it.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat, }
17th June 1891.

H. M. WINTERBOTHAM.

Collector and Commissioner.

Witness No. 120.

KÔDHANATH GOPALAN NAYAR.

Age 45—Ayakkâd Amsam, Palghat Taluk.—Kâranavan of Tarawâd.

My Tarawâd assessment is over Rs. 300. On my separate property I pay nearly Rs. 300 assessment. 1st Grade Pleader practising at Palghat for 2 years, before that for nearly 8 years at Calicut, before that for nearly 6 years at Tellicherry. I think a permissive marriage law for Nayars is absolutely necessary. I am in favour of the Bill, but desire some modifications. If I can't get those modifications I would take the Bill as it is. I would accept the Bill as to guardianship and maintenance. As to succession to intestate self-acquisitions I would give half to wife and children and the other half to the tâvazhi. This is my mature opinion since submitting my answers. I would place no restriction on the testamentary power over self-acquisitions. When living with her husband the wife and children should have no right of maintenance from the tarawâd. The husband should be the guardian except in cases where the wife lives in her own tarawâd. In such cases the Kâranavan should continue to be guardian of the woman and her children as at present. Wherever the husband has self-acquired property, and is able to support his wife and children, he ought to be the legal guardian. If property cannot be made a condition of guardianship and if it is a question between the Kâranavan and the father, I would have the father's right of guardianship to prevail. In the majority of cases the Anandaravan-husbands have no independent property. In South Malabar the wives generally remain in their own Tarawâd houses at present. The converse is the case in North Malabar. In all cases Anandaravan-husbands should supply their wives with cloths, oil and pocket money when the wives live in their own Tarawâds. Anandaravans must get the money for this by their own labour, or from the Kâranavan. A wife will cost in this way from Rs. 25 to Rs. 100 a year. Kâranavans make a money allowance to the Anandaravans either annually or periodically according to their pleasure. There is no fixed custom. In North Malabar the wives live with the husbands, but the wife's Kâranavans are the guardians in law. No inconvenience arises from this state of the law. I wish for the change of guardianship to the father, because as an educated man I think the father should naturally be the guardian of his own children. I know no instance of friction between the Kâranavan and the father in North Malabar, on the question of guardianship. The sons and nephews of Nayars both perform funeral ceremonies. The sons are the proper persons to perform the ceremonies under Hindu law, and I should not object to release the nephews from the obligation. The Marumakkathâyam system of inheritance in my opinion has no religious basis. I can quote no work as authority for this opinion. By tradition there are said to be 64 Ânâchârams in Malabar. I believe they are handed down only by oral tradition. I have never heard of them in the form of a grantham. In my opinion they have no religious authority. The belief of

the majority of the Malayâlis is that Parasu Râma is an incarnation of Vishnu and that the Marumakkathâyam system was ordained by him and is therefore of divine origin. A majority of Marumakkathâyam Malayâlis would object to any change of succession on the ground that the system is instituted by the deity. Adultery, incurable disease, and cruelty by the husband should be the only grounds of divorce. I would vest the matrimonial jurisdiction in Courts with power to refer divorce cases to caste Panchâyats at the request of either party. I think the Panchâyats might be trusted to do justice, if care were exercised in selecting the members. The Nayars think that unrestricted freedom of divorce is bad, but they object to resort to Court and would prefer the Panchâyat as a tribunal. I should wish the Bill to permit inter-marriage between all sub-divisions of Nayars. I would prohibit marriage between different castes, such as Nayars and Tiyaṅs. In Palghat, Ponnani and Walluvanad, a majority of Nayars of all classes desire a marriage law. I don't know what the general feeling is elsewhere.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat, }
18TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 121.

KONGÔT KARUNÂGARAN NAYAR.

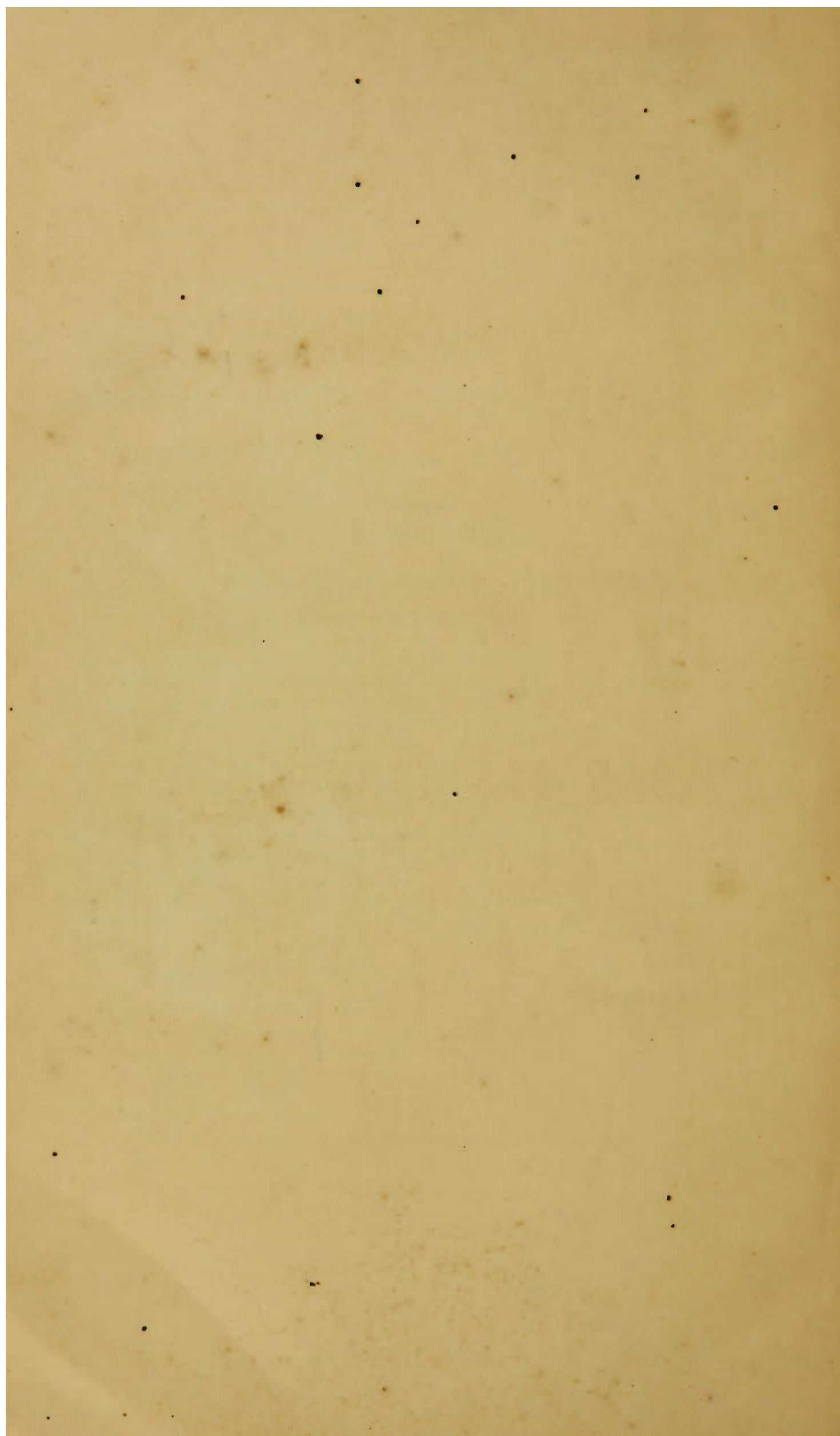
Age 57.—Ayakkâd Amsam, Palghat Taluk.—Tarawâd Kâranavan.

My Tarawâd pays Rs. 800 odd as assessment. I have not received any interrogatories. I see no objection to a permissive marriage law for Nayars. A majority of the Nayars who are respectable and well-informed in my amsam, are in favour of such legislation. There would be about 100 Nayar Tarawâds in Ayakkâd, of which about 40 are well-to-do. About 50 % would be in favour of a marriage law. Divorce is now at the pleasure of either party. It ought to be restricted to reasonable grounds. Reasonable grounds of divorce are adultery, incurable disease on part of wife, cruelty and neglect to maintain her on part of husband. In case of intestacy, half of self-acquisitions should go to wife and children; the other half should go to his own Tâvazhi, or if there be no members in the Tâvazhi, then to the Tarawâd. Existing restrictions as to caste &c. should be maintained.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
18TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.



APPENDIX V
TO THE
REPORT
OF THE
MALABAR MARRIAGE COMMISSION.

APPENDIX V.

Statement shewing the Marumakkathayam Castes and Sub-castes in Malabar, compiled from Table VIII B, Vol. IV of the Census Report for 1881.

Serial No.	Names of Castes.		Population.	
	English.	Malayalam.	Males.	Females.
1	Achchan	അച്ചൻ	20	15
2	Akattara Nayar	അകത്തറനായർ	80	82
3	Alakkukâran	അലക്കുകാരൻ	15	25
4	Ambalakkâran	അമ്പലക്കാരൻ	15	12
5	Ambalavâsi	അമ്പലവാസി	538	469
6	Do. Atiyoti	ടി- അടിയൊടി	3	4
7	Do. Nambissan	ടി- നമ്പിശ്ശൻ	23	13
8	Andi	ആണ്ടി	274	290
9	Annûttân	അണ്ണട്ടാൻ	84	85
10	Anthiyân Kusavan	ആന്തിയാൻകുശവൻ	11	5
11	Anthûrân	ആന്തുരാൻ	1,454	1,466
12	Ârûrân Kurup	ആരൂരാൻകുറുപ്പ	1	2
13	Athi Kurissi	അത്തികുറിശ്ശി	976	1,050
14	Do. Mârayân	ടി- മാറയാൻ	3	1
15	Atikal	അടികൾ	22	27
16	Atiyôti	അടിയൊടി	65	70
17	Attukâran	ആട്ടുകാരൻ	11	13
18	Chakkân	ചക്കാൻ	2,199	2,340
19	Do. Nayar	ടി- നായര	2	4
20	Do. Vâniyar	ടി- വാണിയർ	3	10
21	Chakkingal Nayar	ചക്കിങ്കൽനായര	23	25
22	Châliyan	ചാലിയൻ	10,689	10,877
23	Do. Kâvuthiyan	ടി- കാവുതിയൻ	7	5
24	Do. Poduval	ടി- പൊതുവാൾ	13	10
25	Chankan Nayar	ചങ്കൻനായർ	10	12
26	Chârna	ചാൻ	11	12
27	Do. Panikkar	ടി- പണിക്കർ	2	7
28	Châkkîar	ചാക്കിയാർ	17	21
29	Châya Kurup	ചായകുറുപ്പ	11	11
30	Chêla Kurup	ചെലകുറുപ്പ	6	13
31	Chembôtti	ചെമ്പൊട്ടി	86	179
32	Chenda Pothuvâl	ചണ്ടപൊതുവാൾ	1	...
33	Chettiyân	ചെട്ടിയാൻ	5	6
34	Erâdi	ഏറാടി	82	109
35	Erumân	എരുമാൻ	1,790	1,913
36	Kachchâri Nayar	കച്ചാരിനായര	9	10
37	Kalam Kotti	കലക്കൊടി	...	2
38	Kallâri Kurup	കല്ലാരികുറുപ്പ	5	5
39	Kallât Kurup	കല്ലാട്ട കുറുപ്പ	94	85
40	Kârinkal Nayar	കാരിങ്കൽനായര	108	158
41	Kâra Panikkar	കാരപ്പണിക്കർ	6	4
42	Karthâvu	കർത്താവു	73	78
43	Kathili Nayar	കത്തിളിനായര	4	9
44	Kâvil Ambalavâsi	കാവിൽഅമ്പലവാസി	11	35
45	Do. do. Virâti	ടി- വിരാടി	46	20
46	Kidâran	കിടാരൻ	107	103
47	Kiriyam Nayar	കിരിയന്നായർ	14	15

PENDIX V—(continued)

Serial No.	Names of Castes.		Population.	
	English.	Malayalam.	Males.	Females.
48	Kolayân	കൊലയാൻ	2,561	3,018
49	Kolangara Nayar	കൊളണ്ടറനായർ	3	8
50	Kôlpâd	കൊൽപ്പാട	6	3
51	Mâla Pothuvâl	മാലപ്പൊതുവാൾ	21	20
52	Mannâtiyar	മന്നാടിയാർ	15	9
53	Mârayân	മാരയാൻ	2,077	2,337
54	Do. Ambalavâsi	ടി- അമ്പലവാസി	8	7
55	Matavan	മടവൻ	208	250
56	Mênoki	മെനൊക്കി	12	9
57	Mênon	മെനൊൻ	46	36
58	Mukkuvan	മുക്കുവൻ	2,835	2,805
59	Mullu Tiyan	മുളളതിയൻ	13	7
60	Mûppan Tiyan	മുപ്പൻതിയൻ	1	...
61	Mûthân	മുത്താൻ	3,357	3,444
62	Mukkuvan Kâvuthi	മുക്കുവൻ കാവുതി	30	29
63	Do. Paniyan	ടി- പണിയൻ	8	5
64	Nambiyar	നമ്പ്യാര	191	191
65	Nambrâth Nâyar	നമ്പ്രാത്തനായർ	4	3
66	Nâtuvâzhi Nâyar	നാടുവാഴിനായർ	12	8
67	Nâayakan	നായകൻ	945	854
68	Nâyanâr	നായനാർ	2	...
69	Nâyar Nambi	നായർനമ്പി	2	2
70	Nâyar	നായർ	1,51,944	1,63,276
71	Do. Yâvâri	ടി- യാവരി	21	32
72	Nedungâdi	നെടുങ്ങാടി	344	402
73	Nûl châliyan	നൂൽചാലിയൻ	4	6
74	Odavan	ഓടവൻ	10	5
75	Orayan Nayar	ഓരയൻനായർ	3	2
76	Otath Nayar	ഓടത്തനായർ	27	19
77	Otathavan	ഓടത്തവൻ	12	9
78	Ottakâran	ഓട്ടകാരൻ	2	...
79	Pâlathu Nayar	പാലത്തുനായർ	1	3
80	Pallichchân	പള്ളിച്ചാൻ	177	118
81	Panikkar	പണിക്കർ	113	113
82	Pârâmbi	പാറാമ്പി	5	6
83	Parappûr Nâyar	പറപ്പൂർനായർ	119	104
84	Pathiyâr	പതിയാർ	236	207
85	Perimpur Nayar	പെരിമ്പൂർ നായർ	3	9
86	Pishârôdi	പിഷാരൊടി	645	669
87	Poduvâl	പൊതുവാൾ	1,684	1,841
88	Pulian Nayar	പുലിയൻനായർ	482	434
89	Pumâla kettunnavan	പൂമാലകെട്ടുന്നവൻ	2	4
90	Punambi	പുന്നമ്പി	20	25
91	Pushpagan	പുഷ്പകൻ	53	44
92	Do. Ambalavâsi	ടി- അമ്പലവാസി	22	24
93	Râja	രാജാ	31	5
94	Râvâri	രാവരി	236	279
		സാമന്തൻ	566	561

APPENDIX V—(continued)

Serial No.	Names of Castes.		Population.	
	English.	Malayalam.	Males.	Females.
96	Sāmanthan Erādi	സാമന്തൻ എറാടി	4	10
97	Do. Karthâr	ടി- കർത്താർ	3	10
98	Do. Nambiyar	ടി- നമ്പ്യാർ	13	16
99	Do. Nāduvāli	ടി- നാടുവാഴി	...	1
100	Do. Nedungādi	ടി- നെടുങ്ങാടി	99	107
101	Do. Smarthan	ടി- സ്താത്ത്ത്	25	32
102	Sāmanthan Tirumulpād	സാമന്തൻ തിരുമുല്പാട	61	71
103	Do. Vallōdi	ടി- വള്ളോടി	4	6
104	Sāmpila Nambiyar	സാമ്പിലനമ്പ്യാർ	1	...
105	Sudra	ശൂദ്രൻ	3,546	3,709
106	do. Nāyakan	ടി- നായകൻ	12	9
107	do. Nayar	ടി- നായർ	626	633
108	do. Poduvāl	ടി- പൊതുവാൾ	4	8
109	Tarakan	തരകൻ	2,684	2,717
110	Theyyadi Nambiyār	തെയ്യാടിനമ്പ്യാർ	2	5
111	Theyyambādi	തെയ്യമ്പാടി	141	131
112	do, Kurup	ടി- കുറുപ്പ	8	2
113	Tiyan	തിയ്യൻ	1,08,639	1,11,806
114	do. Kāvuthiyan	ടി- കാവുതിയൻ	623	631
115	Tirumulpād	തിരുമുല്പാട	78	67
116	Thunnakkāran	തുന്നക്കാർ	30	46
117	Ullāttil Nayar	ഉള്ളാട്ടിൽ നായർ	6	6
118	Unithiri	ഉണിത്തിരി	93	95
119	Ūrāli	ഉരോളി	372	336
120	do Nayar	ടി- നായർ	176	174
121	do. Kusavan	ടി- കുശവൻ	75	60
122	Valinchiyān	വളിഞ്ചിയൻ	301	294
123	Vāniyan Nayar	വാണിയൻ നായർ	6	8
124	Vannathān	വണ്ണത്താൻ	84	67
125	Vāniyar	വാണിയർ	16,198	16,282
126	Vāniyan	വാണിയൻ	7	7
127	Vāriyar	വാരിയർ	2,265	2,383
128	Vattekāden	വട്ടക്കാടൻ	2,617	2,679
129	do. Chakkān	ടി- ചക്കാൻ	8	6
130	Vatuka Nayar	വട്ടക നായർ	3	2
131	Veluthēdan	വെളുത്തേടൻ	3,132	3,410
132	Velakkathalavan	വെളുത്തേടല വൻ	2,687	2,868
133	Vellōdi	വള്ളോടി	63	67
134	Vaithiyar	വൈദ്യർ	51	57
135	Yāvāri	യാവാരി	1,227	1,409
136	do. Nayar	ടി- നായർ	10	17
137	Yōgi	യോഗി	264	296
138	do. Gurukkal	ടി- ഗുരുക്കൾ	234	236
Total...			3,34,630	3,51,761

APPENDIX VI

TO THE

REPORT

OF THE

MALABAR MARRIAGE COMMISSION.

(Extracts from Diary).

DIARY OF THE COMMISSION.

CALICUT,
18th May 1891.

The Commission on the Marumakkathâyam Marriage Bill assembled to-day at Calicut.

PRESENT:—1. The Hon'ble Mr. T. MUTTUSAMI AIYAR, C.I.E., Judge of the High Court,—*President*.

2. H. M. WINTERBOTHAM, Esq., Collector of Malabar.

3. RAMA VARMA TAMBURAN AVARGAL, Parappanad Kovilagam.

4. The Hon'ble C. SANKARAN NAYAR, B.A., B.L., High Court Vakil.

5. M.R.RY. O. CHANDU MENON AVARGAL, District Munsiff.

6. M.R.RY. M. MUNDAPPA BANGERA, B.A., B.L., District Munsiff.

* * * * *

PALGHAT,
18th June 1891.

The President proposes that, before exchanging ideas and entering upon discussion, each Commissioner should draw up a rough memorandum of the views independently formed by him up to date on the following questions:—

(1.) What are the customs connected with Marumakkathâyam marriages in Malabar?

(2.) Have they any connection with the religious observances of the people?

(3.) Are the proposed changes desired by the majority of the classes subject to Marumakkathâyam law?

(4.) Are they essential for the protection of the minority?

(5.) Is the proposed marriage legislation expedient?

(6.) If so, what form should it take?

Chief points for notice—

(a) Conditions of a valid marriage.

(b) The form that ought to be recognized.

(c) Registration as evidence of an agreement to be governed by the Act.

(d) Divorce: Grounds of divorce: Tribunal.

(e) Rights and obligations to be attached to the legal form of marriage.

(7.) What will be the effect of the measure on Native Cochin, Travancore, and by those governed by Aliasantana law, and on Nayers living outside Malabar?

Carried unanimously.

Resolved that the Commission assemble at the Calicut District Court on Monday, June 22nd, at 3 P.M., to read and discuss the memoranda.

CALICUT,
22nd June.

The Commissioners assembled at 3 o'clock. The five Commissioners read their memoranda to the President. The Commission is unanimously of opinion that no change in their marriage customs is desired by the majority of persons following Marumakkathâyam. Four out of five are of opinion that legislation is desirable to meet the needs of the educated and progressive minority. Mr. Chandu Menon, the dissenting member, considers that legislation is not only not desired by the majority, but that it is also not necessary for the protection of what he considers to be a very small fraction of the population. He considers, however, legislation to be necessary in case the Courts refuse to recognize the existing social marriages as legal and binding marriages, creating the rights and obligations described by him in his memorandum.

The President elects to reserve his opinion until he has had time to fully analyse the evidence and the replies to interrogatories.

Resolved that the Commission do proceed (on the assumption that legislation is expedient) to a discussion of the details of the Bill under the following heads:—

- (1) Whether the Bill should be adopted in its present form, or whether it should be modified?
- (2) If modified, what modifications are necessary?
- (3) Form of marriage.
- (4) Conditions of marriage.
- (5) Provisions relating to divorce.

CALICUT,
23rd June 1891.

The Commission assembled at 3 P. M.

The President proposes the following resolution:—

“*That the Bill as it stands requires modification,*” and expresses it as his opinion that unless modified, legislation on the lines contained therein is not likely to be acceptable even to a majority of the educated and official classes.

Mr. Sankaran Nayar has no objection to modify the Bill, but if the Bill as modified is not approved, he would wish the Bill to pass as it is.

Mr. Chandu Menon is of opinion that there should be no legislation at all, unless or until the Courts hold that the social marriages prevailing in Malabar cannot be recognized as marriages; and even if they are not so recognized, the Bill in its present form is open to several grave objections and that it should be so modified as to bring it into conformity as far as possible with the usages prevailing amongst the Marumakkathâyam classes.

Rama Varma Tamburân Avargal considers that a permissive marriage law is highly desirable, but that the scheme contained in the Bill is objectionable as ignoring customary restrictions as to caste and consanguinity and that unless it is modified on these points there should be no legislation.

Mr. Mundappa Bangera is of opinion that a modification of the Bill is desirable, but that if the modified Bill is not approved of by the Government, the Bill as it stands should be passed in its entirety.

Mr. Winterbotham is of opinion that the Bill requires modification in detail, and is not fit to be passed into law as it stands.

2. The President proceeds to unfold a scheme,—which commends itself to his mind, as being both practicable and in consonance with the desires and feelings of a majority of Marumakkathâyam Hindus,—by which the customary social marriages may receive legal recognition.

The Commission agree that the scheme be elaborated after discussion, with a view to its submission to Government as an alternative form of legislation.

The Hon'ble C. Sankaran Nayar is requested to embody the President's idea in the form of a rough draft of a section, or sections, to take the place of Section 4 of the Bill.

The conditions qualifying the parties to marry are discussed and agreed to.

CALICUT,
25th June 1891.

The Commission assembled at 3 P. M.

Mr. Sankaran Nayar proposes that all the depositions be printed in full.
Carried unanimously.

June 25th and 26th.

Commissioners occupied in discussing the details of the President's scheme.

The conditions of marriage are drafted and agreed to.

The conditions of registration are drafted and the substance is agreed to.

CALICUT,
27th June 1891.

The Commission assembled at noon.

1. The Divorce sections, as suggested by the President and as drafted by Mr. Sankaran Nayar, are considered.

2. The President proposed that it be suggested, as an alternative, that if Government considers the procedure for divorce not sufficiently strict, the provisions of the Indian Divorce Act may be adopted with a modification in the shape of a provision to the effect that the Court may be enabled to refer the questions in dispute for trial to a caste panchâyat, either on the application of one of the parties, or of both, or on its own motion.

If both the parties agree, then the Judge *shall* refer the matter to such panchâyat.

In every suit tried under such Act the case shall be tried with closed doors.

Mr. Chandu Menon is of opinion that the Court should be bound to refer in all cases where either of the parties wishes it.

The President, Mr. Sankaran Nayar, Mr. Mundappa Bangera and M.R.Ry. Rama Varma Tamburân Avargal agree to the proposal.

Mr. Winterbotham doubts the expediency of referring these divorce cases to a caste panchâyat for trial, and therefore does not agree in the proposal.

3. The sections drafted by Mr. Sankaran Nayar relating to maintenance and guardianship are considered. The President and Mr. Chandu Menon agree to these provisions.

Mr. Winterbotham would agree to these provisions in so far as they are consistent with his view that the father should be the sole legal guardian.

M.R.Ry. Rama Varma Tamburân Avargal agrees to these provisions.

Mr. Mundappa Bangera agrees to the provisions relating to maintenance, but thinks that the father ought to be the sole legal guardian of his wife and children.

Mr. Sankaran Nayar does not object to these provisions.

4. Whether the whole of intestate self-acquisitions ought to go to wife and children, or only a share, and if so, what share?

Mr. Chandu Menon thinks that no share ought to be given.

The President thinks that the whole ought not to be given. M.R.Ry. Rama Varma Tamburân Avargal also thinks that the whole ought not to be given.

Three consider that the whole property ought to go, viz., Messrs. Winterbotham, Sankaran Nayar and Mundappa Bangera.

5. All, except Mr. Chandu Menon, think that the share to be allotted to wife and children ought not to be less than half.

6. Whether the property should descend to the wife and children as Tâvazhi property to be enjoyed by them as members of a Tarawâd?

M.R.Ry. Rama Varma Tamburân Avargal thinks that the properties should not be enjoyed as Tâvazhi, but should be divisible among them, as it came to them according to the Makka-thâyam rule.

Mr. Winterbotham, Mr. C. Sankaran Nayar and Mr. Mundappa Bangera are of opinion that it ought not to be enjoyed as Tâvazhi property, but ought to be divisible.

The President and Mr. Chandu Menon are of opinion that it ought to be enjoyed as Tâvazhi property, and ought to be impartible.

7. Mr. Winterbotham states as follows:—

In my opinion the Commission (in considering what form legislation should take) should have regard to the standard of morality upheld in the various Marriage Acts, denominational and undenominational, which have already received the assent of Government.

Marumakkathâyam rests on the supposed divine precept that there is no virtue in chastity. The institution of marriage is inconsistent with this principle, and a plan for engrafting a lax marriage law upon people wedded to the Marumakkathâyam system is, I think, unlikely to find favour with the legislature.

The Commission ought, therefore, in my humble opinion, to consider whether it is possible to frame a Marriage Act on lines upon which it will be possible for Government to legislate, and which will satisfy the educated few whose moral standard is in accordance with that which Government must uphold.

There is a minority of intelligent, educated, independent Marumakkathâyam Hindus who can earn a living and are able to support a wife and family.

They wish for the institution of marriage, in the sense that they are willing to bind themselves, for life, to one woman; and that they view the guardianship and education of their children as a sacred and paramount obligation inseparable from the relation of husband and wife.

These are the leaven which will leaven the whole lump, and in their interest I beg to propose the following resolution:—

“In case the form of legislation recommended by the President does not secure the approval of Government () out of the six Commissioners, believe that Mr. Sankaran Nayar's draft Bill may be so modified as to be acceptable to educated Marumakkathâyam Hindus, without materially diverging from the lines of legislation which Government has hitherto followed.”

The chief objections urged against the Bill by the persons interested in it, are the following:—

- (1) The prohibition of polygamy, Section 4 (1).
 - (2) Objections to the appearance of the bride before a public officer, Section 14.
 - (3) The ignoring of caste restrictions, Section 4, 1st proviso.
 - (4) The ignoring of consanguinity beyond the 5th degree, Section 4, 2nd proviso.
 - (5) The restrictions on divorce at will.
 - (6) The hardship of not being able to obtain divorce, except by resort to Court.
 - (7) The altering the law of succession as regards self-acquired property in cases of intestacy.
- On (1) and (7) we have already recorded our opinions.

To meet the other objections, where possible, I would suggest the following modifications:—

For Section 14, I would submit as an alternative, the procedure suggested by the President for the registration of marriages.

(3) I would add to 1st proviso:—“But if the difference of caste between husband and wife be such that social usage renders either or both liable to caste excommunication, the husband or wife so liable shall lose his or her right of entry into, or of residence in, his or her Tarawâd dwelling-place or dwelling-places, and the husband shall, at the option of his Tarawâd or of any adult member thereof, forfeit his right of holding, or succeeding to, the office of Kâranavan of his Tarawâd.

(4) Section 4, 2nd proviso:—I would explain the strong feeling against the relaxation of existing restrictions, and would suggest the omission of this provision.

(5) I would recommend that desertion, without reasonable excuse for two years or upwards, be made a ground of divorce. In other respects I would adopt the provisions of the Indian Divorce Act with the necessary alterations in Section 10.

(6) I regard the Divorce Court as a necessary evil and cannot suggest any alternative.

There are a number of minor details in which the Bill is, in my opinion, susceptible of improvement, but it is not necessary to discuss them now, and with these remarks I would ask for the votes of the Commissioners on my resolution.

The President states that in the event of the scheme approved by the majority not commending itself to Government, the question whether he would recommend a law which would be acceptable only to the educated few would depend upon whether such educated minority was in his opinion sufficiently large to warrant Government in the conclusion that legislation was desirable for their protection.

On that point, with reference to both schemes, the President reserves his opinion.

Mr. Sankaran Nayar and Mr. Mundappa Bangera support the resolution.

Messrs. Chandu Menon and Rama Varma Tambarân Avargal reserve their opinion.

The resolution is therefore carried.

The President draws attention to the fact that the proposed addition to 1st proviso, Section 4, would probably be irreconcilable with Act XXI of 1850. After some further discussion, the Commissioners agree that the time is come when they may separate.

The Commissioners agree that each shall draw up a memorandum embodying his views.

The President and Mr. Sankaran Nayar undertake to elaborate the President's scheme and to embody it in a draft Bill.

Mr. Winterbotham undertakes to prepare the statements required by the President, to superintend the translation and printing of the necessary papers, and to draw up a draft report.

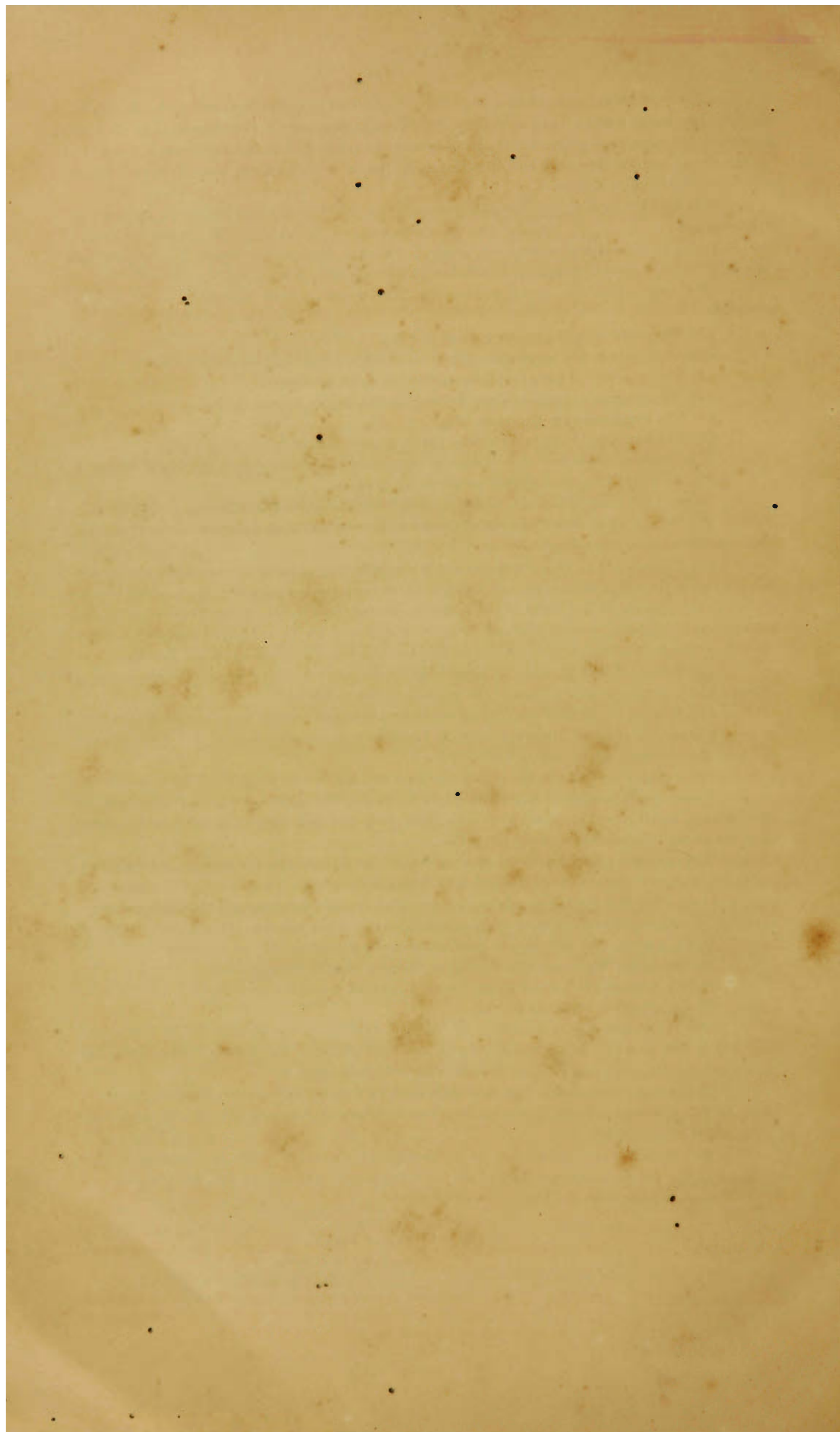
After compliments, the Commissioners separate.

(True Extract.)

H. M. WINTERBOTHAM,

Collector of Malabar,

Member, Malabar Marriage Commission.



GLOSSARY.

Âchâram	= Established custom: dues.
Âchâram-thîrkka	= (To pay the dues). To divorce, generally applied to <i>Īiyan</i> divorces.
Adhigâri	= The head of the Amsam, or parish.
Adima	= Feudal dependency of a Nayar upon his patron. Slavery.
Adiyân	= A Slave. The Sudra=Nayar Sub-Division term themselves the adiyâns of their Nambudiri landlords.
Agathu Chârnathu	= A large sub-division of the Nayar caste. Adherents of the Rajahs: formerly employed in household service.
Agatha Vekkuga	= (Agathu=Inside, Vekkuga='To keep). A preliminary part of the Tâlikettu ceremony, during which the girl is kept apart in a room as if unclean.
Aliya-santânam	= (Aliya=nephew, and Santânam=descent) Sister's issue. Inheritance in the female line. Canarese equivalent of Marumakkathâyam.
Ambalavâsi	= (Dweller in the temple) The name embraces the many sub-divisions of Nayars who are temple servants.
Amâmman	= Uncle. Kâranavan.
Ammâyi	= Kâranavan's (generally uncle's) wife.
Amsam	= (Share, shire). Part of a Taluk. Village. parish.
Anâchâram	= Irregularity established by Custom—applied to certain practices observed by Nambudris and eschewed by other Brahmans.
Anandaravan	= (He who comes after). Next relation, successor, heir.
Antarjanam	= (Antar = Inside, Janam = person). A term applied to Nambudri women who live in seclusion.
Ânthûrân	= A sub division of Nayars, potters by hereditary profession.
Arappura	= Closet. Treasury.
Arayâl	= <i>Ficus religiosa</i> .
Ârppu	= Shouting—acclamation. (at the Tâlikettu procession.)
Arthadannam	= An expiatory ceremony performed among the Nayars of North Malabar to remove the taint brought on a family by a mésalliance.
Ashtamangalyam	= The eight auspicious articles offered to a bride or honoured guest. There is much uncertainty as to what they are. Probably rice, cloth, money, fire, milk, ghee, cocoanut, and a weapon: or symbols of these.
Athâzham, Athâzham Ūttu	= Supper. The feast on the evening of the 1st day of Tâlikettu.
Athikurishi	= One of the sub-divisions of the Nayar caste, who remove defilement after death or birth.
Attâladakkam	= (Taking when extinct). Remote relationship. Right of succession (by virtue of distant relationship) to a divided branch of a tarawâd when that branch becomes extinct.

Ayani Ūnu	= Feasting of the Manavâlan (bride-groom) before he ties the tâli (badge of marriage.)
Bali	= Sacrifice. Offering; chiefly obsequies performed by heirs.
Bandhu	= Relation. Kinsman.
Bharthâvu	= (He who supports) husband.
Bhârya	= (She who has to be supported). Wife.
Bîjam	= Seed. Semen.
Bîjapâraparyam	= (Bîjam=seed, and pâraparyam=succession) succession from the father.
Brâhmini	= (Feminine of Brahman). The name by which the Nambissan females are called, who sing at the Tâlikettu Kalyânam of Nayars.
Châliyan	= (Jâlîka=spider). Name of a caste of Marumakkathâyam Sudras whose profession is weaving.
Chârnathu	= A main sub-division of the Nayar Caste. Adherents of the Rajahs.
Châyippu	= An enclosed verandah behind the Padinyâtta (western) room.
Chêla	= A cloth worn by women.
Cheppu	= A small round box with a lid.
Dakshina	= Gift of money to Brahmans on festive, or solemn, occasions.
Dânamuhûrtam	= An auspicious hour to make a gift (of a virgin to a man.)
Dâyâdi	= A relative. The plural embraces every member of the family however remote.
Dêsakâr	= People of the same clan in a désam.
Dêsam	= Sub-division of an Amsam.
Dêsa-Vâzhi	= The chief man of a Dêsam. An hereditary local authority subordinate to Nâdu-Vâzhi. (Now obsolete).
Dharmam	= The law and its observances. The natural state. The chief virtue, Charity (Gundert).
Dîksha	= Mourning and ceremonies for a deceased person,—usually continued for one year.
Dôsham	= Evil. Sin. Taint.
Edaprabhu	= A petty chieftain.
Ejamân	= Master. Canarese term for the head of an Aliya Santânam family: equivalent to Kâranavan.
Elayathu	= An inferior class of Brahmans who act as priests for Sudras in performing funeral obsequies &c.
Enangan	= (Properly Inangan from Inanguga=to agree). A Kinsman. This is a hard word to define. Sub-Judge Mr. Krishna Menon defines it as "a reconciled member of one's own clan." Of one's own clan some may be friendly, some not. The former are Enangans. The division line is apparently drawn by tradition.
Êrâdi	= (Êr=A bullock, yoke of oxen). Cow-herd. A Sub-division of the Sâmantan sub-caste, formerly ruling in what is now the Ernâd Taluk. The Zamorin dynasty belong to this caste.

Ezhavan	= Properly Îzhavan. A large section of the Tiyan Caste in Palghât Taluk. They follow Makkathâyam, and do not inter-marry with the Tiyans.
Gândharvam	= A love-marriage without ceremonial.
Gôtram	= Tribe (especially of Brahmans).
Grahapravêsanam	= (Graham=house, Pravêsanam=entering.) The ceremony of taking the wife for the first time to her husband's house.
Grahini	= House-wife.
Grâmam	= Village. In Malabar the word especially applies to the 64 Nambudri colonies, who are supposed to have divided the land between them.
Gunadôsham	= (Gunam=good, and dôsham=bad.) One of the terms used in Malabar to denote the tie between a man and the woman with whom he cohabits.
Hômam	= A sacrifice : oblation to the god Agni.
Illakâr	= Persons of the same Illam, or lineage.
Illam	= A Nambûdri's house, or family. The Marumakkathâyam Tiyans and Mukkuvans also speak of their illam, meaning lineage.
Janmam	= The Malabar free-hold proprietary right.
Janmi	= Land-lord.
Kalam	= A pot with wide mouth.
Kalam	= A farm-house : Granary.
Kalari	= A gymnasium. A place of martial exercise, generally dedicated to the goddess Bhagavathi.
Kalasam	= Consecrated water.
Kalasakumbham	= A brass vessel in which water for purification is kept.
Kalyânakutti	= The bride. The girl undergoing the Tâlikattu ceremony.
Kalyânam	= Marriage.
Kânapanam	= The term used by North Malabar Tiyans to represent a sum of money paid by the bridegroom to the bride's uncle. Should be returned if the woman deserts the man, or misconducts herself.
Kanisan	= An astrologer. A sub-caste of the Tiyans, who monopolize the astrological business in Malabar.
Kanyikalam	= (Etymology uncertain) A girl at her first menstruation.
Kâppu	= (From Kâkkuga=to protect) a bracelet, bangle. A charm, or amulet, tied on the girl's arm at Tâlikettu. What it symbolizes seems uncertain.
Kâranavan	= Senior male in a tarawâd, and therefore its head and manager.
Kattilsthânam	= (Bedstead-belongings). Furniture and moveables sometimes given to a Nâyar "widow" and her children, by the heirs of her deceased "husband."
Kâvuthichi	= Barber woman of the Tiyan Caste.
Kêralam or Kêrala	= The Western coast from Gokarnam to Cape Comorin, comprising Travancore, Cochin, Malabar and part of South Canara.

Kêrala-Mahâtmyam	= A mythical history of Kêralam in Sanskrit verse—never printed—authorship unknown—probably 150 or 200 years old.
Kêralôlpathi	= A history of Malabar in Malayalam—author unknown—about 200 years old—one version printed by the German Mission—several versions extant.
Kettikurikkuga	= Betrothal ceremony among Tiyaṅs of North Malabar, at which some fanams are paid by the bride-groom's party to the bride's Kâranavan.
Kettiyaval	= She who is tied. Wife.
Kettiyavan	= (Kettuga=to tie) He who ties, and is tied; hence husband.
Kidakkura	= A term for "Marriage" amongst the Nâyars of Palghât and parts of Wallawanâd. Its etymology is disputed. Probably a corruption of Kidakka+mura=right of cohabitation.
Kidâran	= A small sub-division of the Nâyar Caste whose profession is to work in leather.
Kindi	= A water-vessel with a spout, generally of bellmetal.
Kinnam	= A small metal plate turned-up at the rim.
Kiriyam	= (Tadbhavam from 'graham'=a house) The name of the highest Sub-division of the Nâyars.
Koil Tamburan	= A nobleman of Travancore of the Kovil-pandâla Caste, with whom the Ranis of Travancore Maha Raja's palace may consort.
Kolathiri	= A title of the Raja of Chirakkal.
Kôrapuzha	= A river flowing into the sea seven miles, North of Calicut, and forming the traditional boundary between North and South Malabar.
Kôttapuzha	= A river between Quilandy and Badagara in the Kurumbranad Taluk.
Kovilagam	= Palace, Dwelling place of the Malabar royal families.
Kshêtrapâramparyam	= (Kshêtram=field, and pâramparyam=succession) succession through the field i. e. in the mother's line.
Kshêtram	= Ground; field. In modern use it means a temple.
Kulam	= Clan, family; race; tribe.
Kulangara Pâttu	= (Tank-bank-song) Part of the Tâli-Kettu (or mock-marriage) ceremony in which a procession is made to the tank, where the bride bathes and the Brahmini sings songs.
Machambi	= Brother-in-law; fellow Caste-man (used in Travancore.)
Madavan	= The name of a Sub-division of Nâyars in North Malabar.
Madham	= The house of a Pattar (East Coast) Brahman. Also applied to out-houses of Nâyar families, allotted for the use of Brahmans where they can eat without defilement.
Makkathâyam	= The ordinary law of inheritance from father to son.
Makkathâyee	= One who follows Makkathâyam. A coined word used by the people of Cochin and Travancore.
Malayâli	= A native of Malabar, used of all whose mother tongue is Malayâlam.
Mana	= (Manu=to live.) The residence or mansion of a Nambûdripâd.

Manâlan or Manavâlan	= (Manam=wedding) Bridegroom. The name given to the mock-husband at the Tâli-kattu mock-marriage.
Manâlapilla	= Same as Manâlan or Manavâlan.
Mangalam	= Marriage. Matrimony. A term used by the Tiyan of North Malabar.
Mangalyam	= Auspicious. The marriage token.
Mangalya Sûtram	= (Auspicious thread.) The Tâli and thread by which it is tied round the neck.
Mannân	= Tiyan washerman.
Mannâthi	= Tiyan washerwoman.
Mantram	= A mystic verse or incantation.
Mantravadi or Mantrakodi	= New unbleached cloth with which girls undergoing Tâlikettu Kalyânam are invested at a certain part of the ceremonies.
Mârân, Mârayân, or Mârâr	= Drummers. A class of temple Sudras, the higher section of which perform purification for Brahmans, and the lower perform menial services in temples.
Marumakkathâyam	= The law of inheritance through the female line.
Marumakkathayee	= One who follows Marumakkathâyam. A coined word used by the people of Travancore and Cochin.
Maryâda	= Custom. Proper behaviour.
Mâttu	= A cloth brought by the washer-woman, in which the bride is clad after the days of her seclusion, at her Tâli-kettu.
Mâttu-kacha	= (Mâttuka=to change, to put a stop to, and Kacha=cloth.) Cloth sent to a woman by her husband as symbolical of divorce.
Mêlchilavu	= Pocket money. Allowance for extras besides food and clothes.
Menon	= (From Mên=what is above superior.) A title conferred by the Zamorin on some of his agents and writers. All the males of the Agatha Chârna Nâyars now adopt the title. In Malabar the Village Curnam is called Menon.
Muhûrtam	= The propitious moment determined by astrologers.
Muhûrta-Chârtu	= A piece of cadjan (palm-leaf) on which the Kanisan, or astrologer, inscribes the Muhûrtam, or auspicious time.
Muram	= A fan, or winnow, to sift grain.
Mûthathu or Mûssad	= A class of Brahmans in Malabar, inferior to a Nambudri.
Nadukkâran	= (Nadu=Middle) Middleman. The bride-groom's best-man at a Tiyan wedding in North Malabar.
Nâduvâzhi	= (Nâd=country and vâzhuga=to govern) Governor of a province. Name given to petty chiefs under the old Rajahs.
Nâlukettu	= A quadrangular building with an inner courtyard.
Nambîssan	= A class of temple servants whose business it is to make garlands, and perform ceremonies for Sudras.
Nambûdiri or Nambûdri	= The Malabar Brahman.
Nambûdiripâd	= A head Nambûdiri. The affix <i>pâd</i> denotes superiority in rank wealth and influence.

Nâyar	= The Sûdras of Kêrala. The word is akin to Naik and Naidu, and signifies a leader, a soldier.
Nedungâdi	= A class of Sâmantans formerly ruling in Nedunganâd (south part of present Walluwanâd Taluk.)
Nêtyâr	= An honorific title of the ladies of certain high Nâyar families.
Nirachu-veppu	= Measure full of paddy, or rice, placed in front of lit lamps on the occasion of ceremonies.
Nira-nâzhi	= (Full-nâzhi.) The same as nirachu-veppu. The Nâzhi is a small local measure $\frac{1}{10}$ of a para.
Nira-para	= (Full para). The same as Nirachu veppu. The para is a local measure.
Nyâyam kodukkuga	= (Nyâyam=right, kodukkuga=to give) A term used for divorce among the Marumakkathâyam Tiyans of North Malabar.
Ônam	= The national feast on the New-moon of September, when Parasu-Râma is said to revisit Kêrala
Padinyâtta	= The western room in a house generally considered holy, and only used as a bed room at weddings etc. The sanctuary of ancestors. (Gundert.)
Pallichân	= A class of Nâyars, hereditary palanquin-bearers of the Rajahs.
Pandal, or Kalyâna Pandal	= Wedding booth.
Pânigrahanam	= Taking the virgin's hand in marriage. Part of the Brahman marriage ceremony.
Pâppani	= A female of Nambîssan caste, same as Brahmini. The women of this caste are engaged to sing at Nâyar weddings.
Parisha	= A set, or class, of people: generally applied to the Agathu Chârna division of Nâyars.
Parisham Chêyga	= (To form connection). A term for marriage used by the Marumakkathâyam Tiyans of North Malabar. 'Parisham' is the Tadbhavam corruption of the Sanskrit 'sparsam' = connexion (Gundert).
Pâttamma	= (Pattu=song and amma=woman). A songstress, applied to the Brahmini who sings at the Tâlikettu-Kalyânânam.
Pattar	= The name given to foreign Brahmans. There is a great colony of them at Palghât.
Pattum Valayum Kodukkal	= (Gift of silk-cloth and bracelet). Name of the ceremony gone through when a Rajah forms an alliance with a girl.
Penkettu	= (Pen=woman, and Kettuga=to tie (tali)). Same as Tâlikettu.
Penvâzhcha	= Marriage. A term sometimes used by Tiyans of North Malabar.
Pillai	= The term used for Manavâlan (bride-groom) in some parts of South Malabar. A caste name of certain Nâyars in Travancore.
Pinda	= A rice-ball offered to the dead. Oblations to the deceased.
Pinnam	= Funeral cake.
Pishârôdi	= A class of temple servants.
Poduvâl	= A class of temple servants.
Porlâtiri	= A title of the senior Rajah of Kadathanâd (north of Kôrapuzha

Pôtti	= A patron or protector. The term by which the Nambûdris are called by Nâyars in some parts of Malabar.
Pramânam	= Authority.
Pramâni	= A chief, head-man ; influential person.
Prâyaschittam	= Atonement, or expiation for breach of caste rules (by paying a fine or otherwise.)
Pudamuri, or Pudavamuri	= (Pudava=woman's cloth, and muri=cutting). A "Marriage" ceremony performed among the Nâyars in North Malabar. The signification of the term "cloth-cutting" is obscure and disputable.
Pula	= Pollution by the occurrence of a birth or death.
Pulasambandham	= Relationship such as to entail pollution on the occurrence of a birth or death.
Punyâham	= Consecrated water ; holy water ; Purification of wells, tanks persons etc. (Gundert).
Purâna	= A legend. Old history.
Purathu Chârnathu	= A Sub-division of the Chârna division of Nâyars. Rajah's followers, not engaged in menial service.
Pûrnakumbham	= (Purnam=full and Kumbham=vessel) A vessel filled with holy water.
Pushpagan	= A Sudra class of temple-servants, who supply flowers and garlands to the temple.
Pushpâthi or Pushppini	= (Pushpam=flower). One of the many names of the women of Nambissan caste who make garlands for temples, and assist at Nâyar ceremonies.
Putrâvakâsam	= (Putran=son and avakâsam=right). A term applied in North Malabar to that portion of a man's self-acquisitions which his tarawâd on his death sometimes allows to his children.
Râvâri	= The name of a sub-division of Nâyars whose profession is trade. (Corruption of Vyâbâri).
Sadâchâram	= Good old custom ; courtesy.
Salkâram	= Invitation. Invitation made to a newly "married" couple by their relations after wedding. Used among Marumakkathâyam Tiyaans of North Malabar.
Sâmantan	= A title adopted by a few high and wealthy families, who claim to be above the Sudras, and to be a separate caste between the Sudras and the Brahmans.
Samâvarthanam	= A ceremony which should be performed by Brahman students on completion of their studies preliminary to entering on a family life.
Sambandhakâran	= The Nâyar equivalent for "husband."
Sambandham	= (Lit: connexion). The term used by the Nâyars of South Malabar to denote that a man and woman are united.
Samskâram	= Consecration. Initiation.
Saptapadi	= (The seven steps). Part of the Brahminical marriage ceremony on completion of which the marriage is irrevocable.
Sêshagâr	= (Sêsha=Remaining). Survivors.
Sêshakriya	= Funeral obsequies.

Shrâdha	= Offering to the manes.
Shrudi	= (Hearing). Holy text, generally applied to the Vedâs.
Simantham	= A ceremony performed in the 4th, 5th, or 6th month of pregnancy. (North Malabar.)
Smrithi	= (Remembered.) • Tradition.
Sthâni	= A man of rank, or office.
Sudhabhojanam	= (Purifying meal). Same as Ardhadannam.
Sûdra Nâyar	= A Sub-division of Nâyars, dependents of Nambûdris.
Swarûpakâr	= A class of Nâyars in Travancore.
Tâlam	= A large brass dish.
Tâlappoli	= A feast or offering to Bhagavati, when girls march in procession and offer a plate of rice. Now applied to a procession of girls carrying a plate of rice and a lighted wick, on any auspicious occasion.
Tâli	= A neck ornament worn as the badge of marriage.
Tâmbûlam	= Betel generally presented to elders and friends on occasions of marriage etc.
Tandân	= A head man of Tiyan appointed by the Raja to direct their marriages, funerals, feasts etc.
Tantram	= (Gesticulations) ritual ceremonies.
Tarawâd	= A Marumakkathâyam family consisting of all the descendants in the female line of one common female ancestor.
Tâvazhi	= (Tamil Tâyi=Mother, and •vazhi=way or line.) A branch of a family consisting of a mother and her issue.
Thekkê muri	= Southern room of the house
Thiruvâthira	= A fasting day for females in the month of Dhanu (December-January.)
Thorassêri puzha	= Identical with Korapuzha.
Thumba	Phlomis, or Leucas Indica. A plant sacred to Siva.
Tiratti Vekkuga	= Part of the ceremonial preliminary to Tâli-kettu. Placing the girl in seclusion as if menstruating.
Tirumalpâd	= A Sub-division of the Sâmantans.
Tiyan	= (Islander). A numerous caste below the Sudras whose hereditary profession is toddy drawing. Immigrants from Ceylon—supposed to have introduced the cocoanut palm
• Trikkâkarappan	= An idol of mud, made in the shape of a cone and placed in front of houses on the occasion of the Ônam festival.
Ûrâlan	= Trustee of an endowed temple.
Ûrâli	= A Sub-division of Nâyars whose profession is to cut lâterite stones. Stone-masons.
Uruli	= Caldron to boil 4 or 5 measures of rice, generally made of brass or bell-metal.
Ûzham porukkuga	= (Ûzham=turn, and porukkuga=to cohabit.) The name of a form of "marriage" obtaining in parts of North Malabar.

Vaidîgan	= One who is versed in the Vêdas.
Vâlâyma	= Defilement by a birth : also by a death of a very remote relative.
Valinchiyân	= Name by which barbers, among Nayars, are known in North Malabar.
Vâliseri kottai	= A celebrated temple situated in Calicut Taluk about 10 miles North East of Calicut.
Vâl-kannâdi	= A circular bell-metal looking glass with a handle which a girl undergoing Tâli-kettu kalyânam holds in her hand.
Vamsham	= Clan ; tribe ; lineage.
Vâniyan	= A class of sûdras whose profession is to manufacture oil.
Vannân or Vannathân	= Washerman. The former is generally used for the washerman of Tiyan and other inferior classes, and the latter for the washerman of Nâyars.
Yariyezhutha	= Preparation of an estimate of Tâlikettu expenses by caste-men (South Malabar.)
Vastradânam	= (Vastram=Cloth, and dânam=gift.) Gift of cloth. Modern name for the 'Puda-muri' ceremony.
Vattêkât or Vattêkâdan	= A Sub-division of the Nâyars caste whose business is to supply oil to the temples.
Vêli	= Brahman marriage before the holy fire : applied only to Brahman and Kshatriya marriages.
Veluthêdan	= (Veluppikkuga=to whiten.) Sudra Washerman for Brahmans temples and Nâyars of the higher divisions.
Verumpâttram	= Simple lease.
Vettila-kettu	= (Betel-bundle.) The ceremony, observed by the Sûdras of North Malabar, in taking the bride to the bridegroom's house for the first time after "Pudamuri".
Vîdâram kairâl	= (Vîdaram=house Kairâl=entry.) A form of "marriage" in North Malabar.
Vilakkathalavan	= Sudra barber for Brahmans and the higher division of Nâyars.
Virunnu	= Visit.
Vishu	= The Malabar Hindu New year's day.
Vivâham	= Marriage of Brahmans.
Vâriyar	= (Sweepers). A Sub-division of the Ambalavâsis or temple-servants.
Yâgam	= Sacrifice.
Yâvâri	= (Corruption of Vyâbâri) see Râ vâri. A class of Nayars who are traders.
Yôgam	= An assembly.

